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(Exceeds 300 pages)

Exhibits - Videotape and CD.

Proceeding/Serial No: 92041776

Filed: 8/15/04

Title: Caterpillar, Inc.

V.

PAVE TECH, Inc.

Part 2 of 3

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)

Petitioner,)

v.)

PAVE TECH, INC.,)

Registrant.)

Cancellation No. 92041776

75924827

TTAB

PETITIONER'S NOTICE OF RELIANCE
ON EXCERPTS FROM DEPOSITION OF STEPHEN JONES

In accordance with 37 CFR § 2.120(j), Petitioner hereby offers into evidence the following excerpts from the deposition of Stephen Jones, an officer of the Respondent who had been designated by Respondent as its Rule 30(b)(6) witness:

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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 4, 2005.

Alfred J. DeBorja

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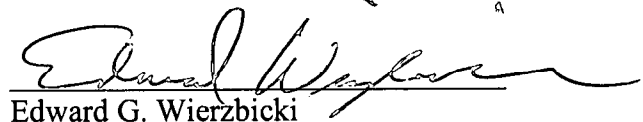
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Date: August 4, 2005

Respectfully submitted,

LOEB & LOEB LLP

By:



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CERTIFICATE OF SERVICE

I, Edward G. Wierzbicki, hereby certify that I caused a copy of the foregoing
**PETITIONER'S NOTICE OF RELIANCE ON EXCERPTS FROM DEPOSITION OF
STEPHEN JONES** to Michael J. O'Loughlin, Michael J. O'Loughlin & Associates, P.A., 400
South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415 (without
attachments) and Rebecca Jo Bishop, Altera Law Group LLC, 6500 City West Parkway, Suite
100, Minneapolis, MN 55344, via first class mail, postage prepaid this 4th day of August, 2005.



1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 TRADEMARK TRIAL AND APPEAL BOARD
3 -----

4 In the Matter of Registration No. 2,684,138: PAVERCAT
5 Registered on the Principal Register on February 4,
6 2003, in International Class
7 CATERPILLAR, INC.,

8 Petitioner,

9 vs.

Cancellation No. 41,776

PAVE TECH, INC.,

Respondent.

ORIGINAL

11 -----
12 DEPOSITION

13 The following is the deposition of
14 STEPHEN JONES, taken before Allison P. Terrell, Court
15 Reporter, Notary Public, pursuant to Notice of Taking
16 Deposition, at 4200 IDS Center, 80 South Eighth
17 Street, Minneapolis, Minnesota, commencing at
18 approximately 9:30 a.m., February 23, 2004.
19
20
21
22
23
24
25

P R O C E E D I N G S

Whereupon, the deposition of STEPHEN JONES was commenced at 9:30 a.m. as follows:

STEPHEN JONES,
after having been first duly sworn,
deposes and says under oath as follows:

EXAMINATION BY
MS. INNIS:

Q. Mr. Jones, please state your full name.

A. Stephen Roy Jones.

Q. Have you been deposed before?

A. Yes.

Q. So you know that you must respond orally to all of my questions, because the reporter cannot record a nod of the head or hand gestures?

A. I understand.

Q. If you do not understand a question that I ask, please let me know and I will try to rephrase the question in a manner that is more understandable. If you need to take a break that's fine, I just ask that you answer the pending question first and then we'll be happy to do that. And if at any time during the deposition you think there is a

1 **A. That's the physical address for both my**
2 **home and the Pave Tech Corporation.**

3 Q. Could you describe the Pave Tech
4 Corporation generally, how it's organized?

5 **A. It is a subchapter S-corporation in the**
6 **State of Minnesota.**

7 Q. Do you own the majority of the stock in
8 the subchapter S-corporation?

9 **A. Yes.**

10 Q. Who are the other stockholders?

11 **A. There is one other stockholder, my wife**
12 **Pamela Schindler-Jones.**

13 Q. What is your current position with Pave
14 Tech?

15 **A. President.**

16 Q. Are you the founder of the company,
17 also?

18 **A. Yes.**

19 Q. How long has Pave Tech been in
20 existence?

21 **A. 1986.**

22 Q. Could you describe generally the
23 business of Pave Tech?

24 **A. Pave Tech originally started as a 1986**
25 **corporation as a contractor involved in the**

1 installation of segmental paving. I developed the
2 Pave Edge product in, I forget, '87 or '88 which then
3 changed our company. We evolved from a construction
4 company to I would say more like a sales and
5 marketing company for construction products.

6 Q. Could you define for us what you mean
7 by the segmental paving industry?

8 A. Segmental paving is the industry that
9 is based upon concrete or clay brick paving.
10 Internationally the term is segmental block paving.
11 North American terms is either brick or interlocking
12 pavements. They are pavements consisting of
13 individual units of block or brick that are used for
14 paving.

15 Q. Would the segmental paving industry be
16 a subset of the construction industry that you
17 evolved from?

18 A. Well, that's awfully broad using the
19 term construction industry. My involvement in this
20 industry started with segmental brick paving and has
21 continued to focus in that area.

22 Q. Could you describe for us the Pave Edge
23 product that you mentioned earlier in your testimony?

24 A. The specific product Pave Edge that we
25 have manufactured for us and sell and distribute is

1 **an extruded PCV product that helps contain the**
2 **perimeter of segmental brick paving.**

3 Q. Could you describe in more lay terms
4 what specifically the purpose is of the Pave Edge
5 product?

6 A. **Brick paving because of its pattern**
7 **when it's laid the pattern and the body of the**
8 **pavement hold itself together. Along the perimeter**
9 **there is no more pavement so the edge is fragile**
10 **because there is no interlock, there is nothing to**
11 **lock it up against. So our material acts as a**
12 **boundary to stop the shifting of the segmental**
13 **pavement. Once the edge of a pavement starts to**
14 **shift or unzip, then the whole pavement starts to**
15 **deteriorate.**

16 Q. Were you the inventor of the Pave Edge
17 product?

18 A. **Yes.**

19 Q. Who was the main financier?

20 A. **We used different companies.**

21 Q. Were you involved with selecting the
22 name Pave Edge for that product?

23 A. **Yes.**

24 Q. What was your role in that?

25 A. **Exclusive.**

1 Q. Could you tell me what the process was
2 you went through to come to the Pave Edge name?

3 A. You mean how many beers? That would be
4 about it.

5 Q. Well, let me ask you this: Is Pave
6 Edge a registered trademark?

7 A. Yes.

8 Q. Were you involved in the process of
9 obtaining that registration?

10 A. My attorneys were.

11 Q. Do you recall whether you or your
12 attorneys did any investigation to see if that name
13 was available for your use?

14 A. Yes.

15 Q. Do you recall what they did?

16 A. A trademark search. That was the
17 extent of my knowledge of what they did.

18 Q. Why did you select the name Pave Edge?

19 A. We had originally called the product
20 Pave Tech Edging which seemed rather -- in trying to
21 keep things simple it seemed simple enough to us, but
22 we wanted to give it a simpler name. And then we
23 came up with Pave Edge, or I came up with the word
24 Pave Edge.

25 Q. Are you familiar with the term "paver"?

1 **A. Yes.**

2 Q. Could you describe for us what paver
3 means?

4 **A. You would have to be a little more**
5 **specific as to context.**

6 Q. I don't want to put words in your
7 mouth. In the context of how you would use that term
8 in the business of Pave Tech.

9 **A. In the business of Pave Tech the term**
10 **paver relates to an individual segmented paving unit.**

11 Q. In other words a brick?

12 **A. Yes. Don't let the concrete guys hear**
13 **that word though.**

14 Q. Would you agree, Mr. Jones, that paver
15 is a generic term for the kind of brick used in the
16 segmental paving industry?

17 **A. Yes.**

18 Q. How does Pave Tech sell Pave Edge or is
19 it a licensed product or could you just describe how
20 it is used in your business?

21 **A. Pave Edge is marketed and sold by us to**
22 **distributors.**

23 Q. And then do distributors sell to the
24 ultimate consumer?

25 **A. The markets are broken up a little bit.**

1 Q. Why don't I step back. Can you
2 describe for me the marketing and distribution
3 channel for Pave Tech or Pave Edge?

4 MR. O'LOUGHLIN: Let's focus on one at
5 a time.

6 Q. Let's take Pave Edge first.

7 A. Pave Edge is by and large but not
8 exclusively distributed through manufacturers of
9 paving stone, paving brick. In some areas we also
10 use brick distributors that we sell direct to. And
11 in infrequent cases we sell direct to contractors and
12 consumers if it's otherwise unavailable.

13 Q. What do you mean if it's otherwise
14 unavailable?

15 A. If we don't have a distributor in a
16 particular market yet we have a potential customer.

17 Q. So if a customer came to you directly
18 and wanted to purchase one of these products but it
19 was in a geographic area where you had a distributor
20 you would send them to the distributor; am I
21 understanding that right?

22 A. That is correct.

23 Q. Do your distributors have exclusive
24 contracts with you?

25 A. No.

1 Q. Are you aware of whether or not those
2 distributors sell other types of products?

3 A. Yes.

4 Q. Could you describe generally what those
5 other types of products might be?

6 A. The companies vary hugely in the type
7 of products they're involved in so I could run a list
8 of things they might sell.

9 Q. Is it possible that these distributors
10 may be selling other types of segmental paving
11 equipment?

12 A. Well, I'd have to ask for clarification
13 because most of them do get involved in the selling
14 of tools.

15 Q. What types of tools?

16 A. Hand tools and that type of equipment.
17 When you use the term equipment, in my mind, just for
18 clarification purposes, equipment to me means
19 something a little bit heavier than tools, something
20 more machinery oriented. When you speak of tools,
21 hand-equipment labor-type tools is more what I'm
22 thinking of.

23 Q. I just want to make sure that we're
24 using the same terminology here. When you say
25 machinery, can you describe generally the types of

1 things you are talking about as distinguished from
2 the labor-type equipment?

3 A. In my particular business in the
4 industry specific machinery, motorized equipment used
5 specifically for segmental brick paving, is extremely
6 limited. There's not a vast range of machinery that
7 we either offer or is available, and what is
8 available we do offer. So it's a very limited scope.

9 Q. Well, for example, would distributors
10 who may sell the Pave Edge product also sell
11 machinery such as a skid-steer?

12 A. Not typically, no.

13 Q. What type of labor-type equipment might
14 they sell that you mentioned?

15 A. There's all sorts of professional hand
16 tools available both from our company and others to
17 help an installer or a laborer on a paving project or
18 a labor project to install his brick paving.

19 Q. Can you identify for me some of those
20 hand tools?

21 A. Would you like names? Photographs? Do
22 we want to go through a brochure?

23 Q. I want to make sure we are on the same
24 page with respect to terminology and especially since
25 I am not in this industry?

1 **A.** Hand tools is basically anything that's
2 going to help an installer or a laborer do his job
3 from a Paverextractor, which is a unit pounded by a
4 hammer into the joints of a pavement to extract a
5 broken or damage paver; to a Paveradjuster, which is
6 a tool used to line up the bond pattern of a paving
7 job; to specialty hammers that might be used to help
8 align the bond pattern; and to slightly larger units
9 that do not fit within the palm grasp of a hand. Is
10 that sufficient?

11 **Q.** Is the Paverextractor a product that
12 Pave Tech manufactures or sells?

13 **A.** We sell it.

14 **Q.** Are you also the manufacturer of that
15 product?

16 **A.** No.

17 **Q.** Were you involved in choosing the name
18 for that product?

19 **A.** Yes.

20 **Q.** What was your involvement?

21 **A.** I don't remember if it was exclusive or
22 not.

23 **Q.** Did you coin the term?

24 **A.** There were numerous terms in the
25 industry used to describe that type of tool.

1 Q. Could you name some of them?

2 A. **"Paver puller," "paver remover," and we**
3 **just kind of stuck to a term which we felt was more**
4 **appropriate which was Paverextractor.**

5 Q. Why did you feel it was more
6 appropriate?

7 A. **It was more descriptive and just**
8 **sounded better.**

9 Q. Would you agree, Mr. Jones, that
10 Paverextractor combines two words that are commonly
11 known in the English language that being "paver" and
12 "extractor"?

13 A. **Yes.**

14 Q. And each of those words has a common
15 meaning in the English language; is that correct?

16 A. **Not the word paver, no.**

17 Q. Well, correct me if I am wrong,
18 Mr. Jones, wasn't it your testimony that "paver" was
19 generic for a type of brick in the industry?

20 A. **In my industry but I think you had said**
21 **in general which goes beyond my industry.**

22 Q. Let me rephrase the question. Would
23 you agree that Paverextractor combines two terms that
24 are commonly known in your industry, that being paver
25 and extractor?

1 **A. Yes.**

2 Q. Did Pave Tech seek trademark protection
3 for Paverextractor?

4 **A. No.**

5 Q. Do you know why Pave Tech did not seek
6 trademark protection for that mark?

7 **A. Because it was common terms and had
8 been used prior to us ever using it.**

9 Q. But Pave Tech has sought trademark
10 protection for Pave Edge, correct?

11 **A. Yes.**

12 Q. Why did you seek trademark protection
13 for Pave Edge?

14 **A. It's a small company and when you
15 invest as much money as we have into a single
16 product, which was our main product and single
17 product for many years, you are looking to protect
18 the investment in the name.**

19 Q. Were you aware of whether or not any
20 third parties were making use of the Pave Edge name
21 prior to Pave Tech's adoption of the name?

22 **A. Not to my knowledge.**

23 Q. Are you currently aware of anyone using
24 the name Pave Tech?

25 **A. No one that is not licensed by us.**

1 Q. I don't need for you to individually
2 identify them, but could you tell me generally who
3 they might be?

4 A. We have some manufacturers in foreign
5 countries and those manufacturers are licensed by us
6 to manufacture and sell Pave Edge and use the Pave
7 Edge trademark.

8 Q. Mr. Jones, are you familiar with the
9 pave cart product?

10 A. Pavercart perhaps?

11 Q. Yes, Pavercart. Thank you for
12 correcting me.

13 A. Yes.

14 Q. Can you describe that product for us?

15 A. It's a manually pushed paver-clamping
16 material-moving tool.

17 MS. INNIS: Could you read that back
18 for me?

19 (The requested portion of the
20 record was read by the reporter.)

21 Q. Is the Pavercart a product that Pave
22 Tech manufactures or sells?

23 A. Yes, we sell it.

24 Q. Do you manufacture it?

25 A. No.

1 Q. And by you I mean Pave Tech. Were you
2 involved in choosing the designation Pavercart to be
3 used with this particular product?

4 A. Yes.

5 Q. Why did you choose that name?

6 A. Again, it was a term, one of a number
7 of terms that was already in use in our industry to
8 describe this type of piece of tool. We adopted it
9 as a way to help identify it.

10 Q. Is Pavercart a trademark of Pave Tech?

11 A. An unregistered trademark.

12 Q. Would you agree, Mr. Jones, that
13 Pavercart is the combination of two terms, paver and
14 cart, that are commonly known and used in the
15 segmental paving industry?

16 A. Yes.

17 Q. Why did you choose not to register
18 Pavercart?

19 A. It was very descriptive and very common
20 -- the two terms were common. It was very
21 descriptive of what it was and it had been used prior
22 to my use.

23 Q. What use was made of it prior to your
24 use?

25 A. The origination of Pavercart, of the

1 Q. Did you coin the term Pavercart to be
2 used specifically for this product?

3 A. You have to explain the term "coin".

4 Q. We have been talking about other terms
5 that have been used in connection with it --

6 A. We adopted the term Pavercart. It was
7 a preexisting term.

8 Q. Am I correct in understanding that
9 there were other people in your industry who were
10 also using that term in connection with that
11 particular product?

12 A. There had been.

13 Q. Are you aware of any third parties that
14 are using that particular term today aside from Pave
15 Tech?

16 A. Are you referring to competitors?

17 Q. Anyone.

18 A. No, not really.

19 Q. Mr. Jones, are you familiar with a
20 product called Paveradjuster?

21 A. Yes.

22 Q. Could you describe that product for me?

23 A. It is a tool used to adjust the bond
24 lines on a segmental pavement.

25 Q. Is this a product that Pave Tech

1 manufactures or sells?

2 **A. We sell it.**

3 Q. You do not manufacture it; is that
4 correct?

5 **A. That's correct.**

6 Q. Do you sell it under a license from
7 another company?

8 **A. We sell that under a verbal
9 distribution with the Probst company in Germany.**

10 Q. Who is Probst?

11 **A. Probst is a German fabricating company
12 specializing in the fabrication of tools, equipment,
13 and machinery for manufactured concrete products.**

14 Q. Were you involved in adopting the
15 Paveradjuster name to be used in connection with this
16 product that you just described?

17 **A. All of the names that we use -- let's
18 go back to the Germans for clarification. The
19 Germans like model numbers. I forget what they use
20 for the Paveradjuster; I think it is SZ. The
21 Americans, our customers, are typically more used to
22 trade names so we would apply trade names to the
23 products. Paveradjuster is one of the trade names we
24 applied to this alignment tool of Probst.**

25 Q. Would that be the same for the

1 Pavercart?

2 **A. Yes.**

3 Q. Is that particular term Paveradjuster
4 used in connection with that product in the European
5 market?

6 **A. No, it is not.**

7 Q. Would that also be true with Pavercart?

8 **A. Yes.**

9 Q. Why did you choose to use the term
10 Paveradjuster for that particular product?

11 **A. It was descriptive of the tool.**

12 Q. Is it descriptive of the tool because
13 it's a combination of the words paver and adjuster
14 which describe an attribute of that product?

15 **A. Sort of.**

16 Q. Do you want to elaborate on your
17 answer?

18 **A. If you take the two words separately,**
19 **paver and adjuster, it doesn't really tell you**
20 **anything. How do you adjust a paver? The only way**
21 **to adjust a paver is to shift or move it around, and**
22 **that is what this tool does.**

23 Q. I believe you told me that you chose
24 this name because it is more descriptive of the
25 product.

1 **A. Once you understand the purpose of the**
2 **tool it makes more sense. Once you understand it is**
3 **an alignment tool designed to move or shift the**
4 **product around then the word adjuster makes more**
5 **sense.**

6 **Q. Are you familiar with the term**
7 **Paversplitter?**

8 **A. Yes.**

9 **Q. Describe what a Paversplitter is.**

10 **A. It is a tool designed to mechanically**
11 **break pavers along a determined line or axis.**

12 **Q. Is this a product that Pave Tech**
13 **manufactures or sells?**

14 **A. We sell it.**

15 **Q. Do you sell it under a license from**
16 **another company?**

17 **A. We have a distribution agreement for**
18 **selling those products.**

19 **Q. Who is that distribution agreement**
20 **with?**

21 **A. Almi from Holland.**

22 **Q. Can you spell that for me?**

23 **A. A-l-m-i.**

24 **Q. Were you involved in adopting the name**
25 **Paversplitter for this particular product?**

1 **A. Yes.**

2 Q. What was your involvement?

3 **A. Mostly maybe. Probably exclusive.**

4 Q. Did you choose that name to be used for
5 that particular product?

6 **A. Yes.**

7 Q. Why did you choose that particular
8 name?

9 **A. Well, it's descriptive of what it did.**

10 Q. How so?

11 **A. "Paver" referring to the individual**
12 **segmented unit of paving; "splitter" being the**
13 **physical action of breaking the paver.**

14 Q. Again, this would be a combination of
15 two words that are commonly known in your industry?

16 **A. Yes.**

17 Q. Is Paversplitter a trademark of Pave
18 Tech?

19 **A. Unregistered.**

20 Q. Why did you choose to not register that
21 particular product?

22 **A. Two common terms that are very**
23 **descriptive of the action and again were probably**
24 **used prior to our use by others.**

25 Q. Are you aware of any third parties

1 currently using the term Paversplitter aside from
2 Pave Tech?

3 **A. Specifically, no.**

4 Q. Aside from paver edge which you
5 testified --

6 **A. Pave Edge?**

7 Q. Pave Edge, sorry. Which you testified
8 about earlier, can you identify any other registered
9 trademarks of Pave Tech just that you can recall off
10 the top of your head?

11 **A. We have a number of them. Paverguard**
12 **is one.**

13 Q. Paverguard?

14 **A. Yep.**

15 Q. Can you describe the Paverguard product
16 for me?

17 **A. It is a surface-coating sealer.**

18 Q. Is this a product that Pave Tech
19 manufactures or sells?

20 **A. We sell it.**

21 Q. Do you sell that pursuant to a
22 distribution agreement?

23 **A. No.**

24 Q. Do you manufacture Paverguard?

25 **A. No. It is a chemical sealing product**

1 **manufactured by the Valspar Corporation.**

2 Q. Is this a product that is mass
3 distributed?

4 A. **It's distributed through our chain of**
5 **distribution through manufacturers and distributors**
6 **of segmental paving.**

7 MR. O'LOUGHLIN: Counsel, do you mean
8 mass distributed by Valspar or by Pave Tech?

9 MS. INNIS: Well, let me step back.

10 Q. Who manufactures Paverguard?

11 A. **Specifically, Federal International**
12 **Chemicals out of Chicago which is a division of**
13 **Valspar Paint.**

14 Q. Can you spell that for me?

15 A. **V-a-l-s-p-a-r.**

16 Q. Is Paverguard a private label for Pave
17 Tech of a particular compound that's available under
18 other names?

19 A. **It's the trademark of a product that we**
20 **have manufactured to our specification.**

21 Q. Were you involved in adopting the term
22 Paverguard to be used with this surface-coating
23 product?

24 A. **Yes.**

25 Q. Why did you choose Paverguard?

1 **A.** Looking for a tie-in to our other
2 **trademarks and is somewhat descriptive of what it**
3 **did.**

4 **Q.** To break that down can you describe to
5 me how it ties in to your other products and then how
6 you believe it is also descriptive of the function of
7 the product?

8 **A.** All of our trademarks, registered and
9 unregistered, typically, not exclusively but
10 typically, begin with the word paver or pave. And
11 the second part of that, guard, in my mind referred
12 to the action of protection or guarding of the pavers
13 themselves.

14 **Q.** Mr. Jones, are you aware of any third
15 parties who use the term Paverguard in connection
16 with a similar product?

17 **A.** No.

18 **Q.** Are you aware of any third parties who
19 use the term guard as part of their mark for a
20 similar product?

21 **A.** Chemical coatings is a very huge
22 business and I think guard must, and not that I
23 specifically recall, but I'm very aware that I'm sure
24 that word is used in other references.

25 **Q.** But you don't have any specific

1 recollection of another product that has the term
2 guard as part of its mark?

3 **A. No.**

4 Q. In addition to Paverguard are there
5 other registered trademarks of Pave Tech?

6 **A. Yes, there are.**

7 Q. Can you identify those for me?

8 **A. I don't have a list of those.**

9 Q. Just off the top of your head whatever
10 you can remember.

11 **A. I believe Paverprep is one.**

12 Q. Can you tell me about that product?

13 **A. It's an acid cleaning product.**

14 Q. I'm sorry. An acid --

15 **A. An acid cleaning product.**

16 Q. Can you tell me what that product is
17 used for?

18 **A. It's used to remove efflorescence,**
19 **which is a sodium and/or calcium by-product within**
20 **the product itself, to remove that from the surface**
21 **of the pavers. It's also used to prepare the surface**
22 **of the pavers for coating with a sealer.**

23 Q. I just want to make sure that I'm
24 understanding the function of the product. The
25 Paverprep product would be used to prepare the

1 surface of the pavers before you would apply a
2 product like Paverguard?

3 **A. Correct.**

4 Q. Is Paverprep a product that Pave Tech
5 manufactures or sells?

6 **A. We sell it.**

7 Q. Who is the main manufacturer of that
8 product?

9 **A. Federal International Chemicals a**
10 **division of Valspar.**

11 Q. Is the Paverprep product also a product
12 that is manufactured to your specifications?

13 **A. Yes.**

14 Q. Were you involved in choosing the name
15 for that product?

16 **A. Yes.**

17 Q. Why did you choose the name Paverprep
18 for this product?

19 **A. The answer would be that I felt it was**
20 **in keeping with the line of trademarks registered and**
21 **unregistered which we were using to promote our**
22 **products, and it was somewhat or semi-descriptive of**
23 **the action that the actual product did.**

24 Q. Is the use of the term prep in
25 Paverprep meant as a shorthand way of saying

1 preparation?

2 **A. Yes.**

3 Q. Are you aware of any third parties who
4 use the term Paverprep in connection with a product
5 that prepares the surfaces of pavers?

6 **A. No.**

7 Q. Are you aware of any third parties who
8 use the term prep as part of a trademark for their
9 product that prepares the surfaces of pavers for
10 coating?

11 **A. Not to my knowledge.**

12 Q. Are there any other registered
13 trademarks of Pave Tech that come to mind?

14 **A. I don't remember which ones are**
15 **registered and which are unregistered. If you would**
16 **like me to ask my attorney I would be happy to.**

17 Q. No, I just want your recollection.
18 What about Pavercat; is that a trademark of Pave
19 Tech?

20 **A. Yes.**

21 Q. Is that a registered trademark?

22 **A. Yes.**

23 Q. Can you describe the Pavercat product
24 for me?

25 **A. The Pavercat trademark, as used by us**

1 most recently, is a product that I would say is an
2 installation machine for helping put materials on a
3 segmental paving job. More specifically specific to
4 the actions of a paver job because the actual -- the
5 reason why I'm trying to be a little more specific is
6 it is not a general-use machine. It is a machine
7 designed specifically to support the functions of a
8 segmental paver. There are certain actions that he
9 must take that must be accomplished.

10 MS. INNIS: Could you read that back?

11 (The requested portion of the
12 record was read by the reporter.)

13 Q. You said most recently. Was there a
14 prior use of Pavercat with a paver product?

15 A. No. If you want to broaden that, I
16 might answer it a little better.

17 Q. How might you answer the question
18 better?

19 A. The Probst company used the term PC VM
20 for an attachment to a skid steer which they call
21 Pavercat which was one of their few uses of an actual
22 term.

23 Q. Did Pave Tech manufacture or sell the
24 PC VM product?

25 A. I don't remember if we ever sold a

1 **PC VM or not.**

2 Q. To the best of your knowledge, when did
3 Probst use the term PC VM in contrast to Pavercat for
4 this particular attachment?

5 A. **Probst always refers to their products**
6 **in specific terms by model numbers so any trademarks**
7 **are reduced to letters or numbers. In the case of**
8 **the Pavercat it would be product Pavercat, model**
9 **PC VM.**

10 Q. In connection with the product
11 Paveradjuster that you distribute under an oral
12 agreement with Probst, do you recall what the model
13 number is for that particular product?

14 A. **No.**

15 Q. Do you remember what the trademark is
16 that is used for that particular product by Probst?

17 A. **Probst uses model numbers and not**
18 **trademark names in general terms, and I do not recall**
19 **specifically the actual model number.**

20 Q. Would that be true also with the
21 Pavercat product manufactured or distributed by
22 Probst?

23 A. **That skid steer attachment as I**
24 **mentioned had a name of Pavercat but a model number**
25 **of PC VM. Again, as clarification the Probst company**

1 always has a model number for their catalogs and
2 ordering and so on, but in a handful of instances
3 they do apply a trade name.

4 Q. With regard to the Pavercat product
5 that Pave Tech currently sells, does Pave Tech sell
6 and manufacture that product or just sell that
7 product or just manufacture that product?

8 A. Well, I can answer that question better
9 if it was the most recently used or sold product
10 because we currently are not promoting the sale of
11 that particular product.

12 Q. Why not?

13 A. Probst was sourcing the product from a
14 company, I believe, from Belgium and they have become
15 an unreliable partner.

16 Q. How so?

17 A. Unable to supply machinery on a
18 reliable basis.

19 Q. By reliable basis would that be because
20 there were quality control problems with the product?

21 A. Mainly it had to do, I believe, with
22 the internal financing of that particular company not
23 being able to support the manufacturing. So when an
24 order was placed we were unable to get it in a timely
25 fashion.

1 Q. How long has this been true?

2 A. **A couple of years.**

3 Q. Is Pave Tech currently selling Pavercat
4 products?

5 A. **No.**

6 Q. Does Pave Tech intend to sell Pavercat
7 products in the future?

8 A. **There seems to be a need for that type**
9 **of product in our industry so I would say a goal**
10 **would be to fulfill that need.**

11 Q. Have you taken any steps to achieve
12 that goal?

13 A. **No.**

14 Q. Is Pavercat currently being promoted by
15 Pave Tech for sale?

16 A. **No.**

17 Q. Is the Pavercat product being promoted
18 on Pave Tech's website?

19 A. **To my knowledge it would be no. If it**
20 **is we should fix that quickly.**

21 Q. If a potential customer contacted Pave
22 Tech wanting to purchase a Pavercat product, what
23 would they be told?

24 A. **It would be dependant upon the**
25 **customer. If it were a customer that currently owns**

1 a machine, we might try to source that from Probst on
2 a special basis.

3 Q. How would you do that?

4 A. We would contact Probst, evaluate the
5 ability or the reliability of trying to place an
6 order with the Belgian supplier, and get a quotation.

7 Q. To your knowledge has any customer
8 attempted to purchase a Pavercat product from Pave
9 Tech in the last two years?

10 A. Yes.

11 Q. Do you recall who that customer might
12 be?

13 A. No.

14 Q. Do you recall what your response to
15 that customer was?

16 A. "Don't."

17 Q. You don't recall?

18 A. No, don't place the order.

19 Q. Why was that?

20 A. Our concern as a company is to make
21 sure that when we supply goods, especially machinery
22 items with engines and stuff that are a little more
23 complicated as far as warranties, we want to make
24 sure we have access to the spare parts and things
25 necessary to support the goods. We are uncomfortable

1 with the current arrangement with that Belgian
2 supplier as far as parts are concerned and it makes
3 us uncomfortable in ordering that equipment.

4 Q. Did you suggest an alternate purchase
5 to that customer?

6 A. No.

7 Q. Going back to the Pavercat mark as Pave
8 Tech has used that mark, were you involved in the
9 selection and adoption of that mark for the
10 particular product?

11 A. Yes.

12 Q. Did you choose that mark?

13 A. Yes.

14 Q. Why?

15 A. As Probst had used the mark previously
16 it seemed like a catchy phrase. Trademarks are as
17 much as they can be a catchy phrase in an industry.
18 I always thought that on a tool we didn't use or sell
19 it was a waste of a good trademark. So I adopted the
20 term Pavercat from their PC VM and applied it to the
21 product we were then selling which was called
22 rollmops.

23 Q. Could you spell that?

24 A. R-o-l-l-m-o-p-s.

25 Q. Did you seek permission from Probst to

1 use the name Pavercat?

2 **A. I informed them.**

3 Q. Do you recall when that was?

4 **A. No.**

5 Q. Do you know who at Probst you informed?

6 **A. Martin Probst.**

7 Q. Who is he?

8 **A. The president of Probst.**

9 Q. Did you identify the product with which
10 you intended to use the Pavercat name?

11 **A. Yes.**

12 Q. Does Probst distribute or manufacture a
13 similar product?

14 **A. They distributed the rollmops product**
15 **from Belgium.**

16 Q. But they did not use the term Pavercat
17 in connection with that particular product, correct?

18 **A. Initially, no.**

19 Q. Did they subsequently?

20 **A. I believe they had begun to adopt that**
21 **term, but I do not know to what extent.**

22 Q. Do you know when that was?

23 **A. No.**

24 Q. Do you know if they are currently using
25 that term in connection with that mark?

1 **A. I don't know.**

2 Q. Mr. Jones, I believe that you
3 previously testified that you adopted the mark
4 Pavercart in connection with the particular product
5 involved because it had some descriptive qualities to
6 it; is that correct?

7 **A. Yes.**

8 Q. And that is also true with the term
9 Paverguard?

10 **A. Yes.**

11 Q. And paver edge?

12 **A. Pave Edge.**

13 Q. And Paversplitter?

14 **A. Yes.**

15 Q. And Paverextractor?

16 **A. Yes.**

17 Q. What about Pavercat; would that also be
18 true?

19 **A. No.**

20 Q. Why not?

21 **A. This piece of equipment was an**
22 **extremely versatile piece of equipment doing many**
23 **tasks specific to the installation of pavers. We**
24 **were looking on a motorized piece of equipment and we**
25 **had already taken the name Pavermax. Again, not**

1 descriptive of what the machine did but again keeping
2 with our trademark usages. Difficult to describe in
3 a single syllable or type phrase the actions of that
4 product.

5 Q. Mr. Jones, you previously testified
6 that paver was generic for the clay brick that is
7 used in the segmental paver industry, correct?

8 A. Clay and concrete, yes.

9 Q. What is the significance of combining
10 that generic term "paver" with the term "cat" as it
11 is used in connection with the product that Pave
12 Tech, I guess, is currently not selling but did sell?

13 A. Well, that's a little more difficult to
14 describe. We were trying to find a catchy name for a
15 machine that is difficult to describe. It is not
16 something that you can tell what it does in a
17 sentence or even a couple of sentences, so we were
18 trying to give it a name keeping it with the term
19 paver and again something.

20 Q. Why did you settle on the name "cat"
21 for that portion of the name?

22 A. It came from the Probst use of the name
23 and we expanded on the use by adding a cat's head
24 logo to the name, again, trying to build a product
25 identity and something memorable to the customers.

1 Q. When did you expand on the use by using
2 the cat's head logo?

3 A. Approximately the beginning of our use.
4 I don't remember when.

5 Q. Did you attempt to register that logo?

6 A. I don't remember. I don't believe so.

7 Q. Returning to the term or the trademark
8 Pavermax that you previously testified to --

9 A. Yes.

10 Q. -- is it correct that Pave Tech uses
11 the term Pavermax in connection with a big motorized
12 piece of equipment?

13 A. Well, big in your terms -- no, it is a
14 little motorized piece of equipment compared to your
15 stuff.

16 Q. What was the connection with the term
17 "max"?

18 A. We were trying to come up with a name
19 as opposed to a model number. The model numbers were
20 VM203s and VM204s. Again, we were selling to
21 American contractors and they much more easily
22 remember trade names than they do model numbers so in
23 order to create an identity for the product we gave
24 it a name.

25 Q. Why did you specifically use the term

1 max to combine with "paver" as that name?

2 A. You see the term max added to a lot of
3 things these days as a means to describe certain
4 products. I think they even use it from razor blades
5 to anything to describe something that is either high
6 output or high performance or high quality.

7 Q. Was it meant to conjure up maximum
8 performance?

9 A. I suppose so but not necessarily
10 specific and exclusive to that.

11 Q. Mr. Jones, are you familiar with
12 Caterpillar Tractor Company?

13 A. Yes.

14 Q. When did you first become familiar with
15 that company?

16 A. As a small child.

17 Q. How so?

18 A. Well, earth-moving equipment is always
19 very neat for kids.

20 Q. So would it be fair to say that you've
21 been familiar with the Caterpillar company and their
22 products for over twenty years?

23 A. You could say forty years.

24 Q. Are you familiar with the kind of
25 products that Caterpillar manufactures and sells?

1 **A. Yes.**

2 Q. Are you familiar with Caterpillar's
3 skid-steer loaders?

4 **A. Yes.**

5 Q. When did you first become familiar with
6 that product?

7 **A. I think when they were first introduced**
8 **in the not too distant past. What was it? About**
9 **five years ago?**

10 Q. Are you familiar with the Caterpillar's
11 use of the trademark "cat" in connection with its
12 products?

13 **A. Yes.**

14 Q. Is it true that you are also familiar
15 with their use of "cat" in connection with skid-steer
16 loaders?

17 **A. Specific to the skid-steer loaders I**
18 **guess, no. In general, yes.**

19 Q. Mr. Jones, then would it be true that
20 you were familiar with the "cat" trademark prior to
21 adopting the mark Pavercat?

22 **A. Yes.**

23 Q. Would you agree, Mr. Jones, that "cat"
24 is a famous trademark?

25 MR. O'LOUGHLIN: Answer only if you

1 know the answer.

2 A. Well, as a trademark, yes, it is quite
3 worldwide famous, but it is also a very common term.
4 So in reference to heavy construction equipment, yes.

5 Q. I just want to clarify to make sure I
6 understand your last response. Is it correct that
7 you would agree that "cat" is a famous trademark in
8 the construction equipment industry?

9 A. Yes.

10 Q. In addition to the fact that "cat" is a
11 famous mark in the construction industry, your last
12 response indicated an addition to that. Could you
13 also explain to me or, I guess, restate what the
14 second part of your answer was?

15 A. Well, the term cat is used by other
16 companies known in the construction industry also
17 such as Bobcat who we worked with in the past. So I
18 guess if you are asking if the word cat in and of
19 itself is a world famous trademark and do I recognize
20 that, yes.

21 Q. In addition to the Bobcat mark that you
22 just referred to, can you identify any other
23 third-parties that are using the term cat in the
24 construction industry?

25 A. Nothing immediately comes to mind.

1 Q. Did you consider Caterpillar's use of
2 cat in any manner at the time that you adopted the
3 term Pavercat for use by Pave Tech?

4 A. I don't specifically remember if we did
5 or didn't. I know there was some thought process at
6 the time.

7 Q. What was that thought process?

8 A. To the best of my recollection it was
9 more in keeping with our use of trademarks as we had
10 all along applying the pre-term paver to a secondary
11 term which had to do with a cat as opposed to a
12 Caterpillar. We wanted to be a feline and not a bug.

13 Q. Did you consider whether or not
14 Caterpillar might have an objection to your use of
15 "cat"?

16 A. Did I consider it at the time, no. I
17 knew when we filed for registration that there was an
18 opposition period.

19 Q. Did you discuss with anyone the
20 possibility that Caterpillar might file an opposition
21 during that opposition period?

22 A. Not to my recollection.

23 Q. In your previous answer you said we.
24 Who is the we you were referring?

25 A. I do that to myself a lot. It would be

1 **me.**

2 Q. Was there anyone else involved in this
3 selection process other than yourself?

4 **A. Only my attorney in the registration**
5 **process filing for trademarks.**

6 Q. Anyone besides your attorney?

7 **A. No.**

8 Q. Did you ever discuss a possible
9 objection by Caterpillar with anyone else other than
10 your attorney?

11 **A. That was asked and my answer was no.**

12 Q. Mr. Jones, you mentioned the Bobcat
13 folks; is that correct?

14 **A. Yes.**

15 Q. What is Pave Tech's relationship with
16 Bobcat?

17 **A. Over the years they have helped supply**
18 **us with equipment for contractor training seminars.**
19 **They have also been our vendor. We have purchased**
20 **machines from them.**

21 Q. I just want to clarify something
22 because I believe I misspoke. Bobcat is actually the
23 product, correct, and not the company?

24 **A. That's correct.**

25 Q. Who is the company?

1 **A. Melroe, I believe, owned by**
2 **Ingersoll-Rand owned by God knows who.**

3 Q. Are you familiar with the Clark
4 Equipment Company?

5 **A. Yes.**

6 Q. Who are they?

7 **A. I believe they were, and I don't know**
8 **where they are in the chain of ownership, but I**
9 **believe they are owned in the chain of ownership of**
10 **Bobcat.**

11 Q. Would you agree, Mr. Jones, that the
12 term bobcat is a feline animal that actually exists
13 in the world we live in today?

14 **A. Yes.**

15 Q. Would you agree also that Pavercat is
16 not an actual feline animal that exists in the world
17 today?

18 **A. In an animal sense, yes, I would have**
19 **to agree with that. But we're working on cloning**
20 **them right now.**

21 MS. INNIS: Can we take a short break?

22 (A brief recess was taken.)

23 Q. Mr. Jones, when we left off we were
24 talking about the Ingersoll-Rand Company and I
25 believe you testified that that company had supplied

1 some product or machine for you for use in
2 educational seminars; is that correct?

3 **A. Machines at various locations, yes.**

4 **Q. What machines were those?**

5 **A. Skid steers.**

6 **Q. Is that a skid-steer loader?**

7 **A. Yes.**

8 **Q. What did you do with the skid-steer**
9 **loader that they supplied?**

10 **A. We would use those for material**
11 **movement and digging aggregates, creating aggregates.**

12 **Q. Would you use those as a method of**
13 **demonstrating the use of your own products?**

14 **A. We have some products that can be**
15 **utilized by a skid-steer loader which specifically**
16 **would be clamps for gripping, material handling,**
17 **those same products that would also be used by a**
18 **forklift.**

19 **Q. Tell me the purpose of the educational**
20 **seminars.**

21 **A. It would be to educate people, usually**
22 **contractors, on the correct installation methods for**
23 **segmental paving.**

24 **Q. Are they contractors for Pave Tech?**

25 **A. And our distributors, yes.**

1 Q. Are they potential customers for all of
2 Pave Tech's products or are these educational
3 seminars that are specific to a particular portion of
4 your business?

5 A. Some of the seminars are more involved
6 than others. We have a chemical side to our business
7 which we don't always get involved in as far as
8 training seminars go because it requires a whole
9 different type of setup and timing and so on.

10 Q. Did you ever use a Pavercat product at
11 any seminars?

12 A. Yes.

13 Q. Are you able to identify those
14 seminars?

15 A. To the best of my memory two come to
16 mind, although I know there was more. One was E. P.
17 Henry out of Woodbury, New Jersey which is a
18 customer/distributor of ours. It was more of a
19 demonstration than a training seminar.

20 Q. Who was in attendance at that
21 demonstration?

22 A. Contractors.

23 Q. Did any of those contractors
24 subsequently become a purchaser of the Pavercat
25 product?

1 **A.** **I can't answer that. I don't know.**

2 **Q.** You mentioned two seminars. What was
3 the other one aside from the E. P. Henry one out of
4 New Jersey?

5 **A.** We had conducted one of the mega demo
6 seminars at World of Concrete. I think we had given
7 you details of that in other information you already
8 have. I can't remember the year.

9 **Q.** Could it have been the year 2000?

10 **A.** No. Wait. Maybe it was. Boy, how
11 time flies when you're having fun. It could have
12 been 2000. It was right around that time that we
13 conducted one of the mega demos in Orlando at the
14 World of Concrete and the PaverCat was used there.

15 **Q.** Was the product or model used there
16 branded PaverCat?

17 **A.** Yes.

18 **Q.** At either of the two educational
19 seminars that you just testified about were you also
20 using equipment from Ingersoll-Rand?

21 **A.** Not at the New Jersey one, but at the
22 World of Concrete we were.

23 **Q.** Do you recall which equipment that was?

24 **A.** Do you want model numbers?

25 **Q.** No.

1 **A. It's skid steer equipment and I don't**
2 **remember if we used a mini excavator or not.**

3 **Q. What is a mini excavator?**

4 **A. It is a small-sized backhoe, tracked**
5 **backhoe.**

6 **Q. What is that used for in the segmental**
7 **paving industry?**

8 **A. Actually, it is used in the segmental**
9 **retaining wall industry. We have a clamp that**
10 **actually lifts multiple units at a time to set into**
11 **place on building segmental retaining walls.**

12 **Q. Did you ever discuss your use of**
13 **Pavercat with anyone at the Ingersoll-Rand company?**

14 **A. Not that I recall.**

15 **Q. Do you know whether the Ingersoll-Rand**
16 **Company was aware of Pave Tech's use of Pavercat?**

17 **A. I am sure they became aware of it at**
18 **World of Concrete.**

19 **Q. Why are you aware of that?**

20 **A. Because they had their staff operating**
21 **their machines.**

22 **Q. Were they operating their machines in**
23 **connection with your demonstration?**

24 **A. Yes.**

25 **Q. Do you recall who from Ingersoll-Rand**

1 was that demonstration?

2 **A. Not specifically, no.**

3 Q. Is there a person that generally you
4 deal with there?

5 **A. There is a contact that normally we**
6 **deal with, Mike Fitzgerald.**

7 Q. Do you know what his position is?

8 **A. I think it has changed over the years.**

9 Q. Do you know what his current position
10 is?

11 **A. No, I don't.**

12 Q. Do you know where he is located?

13 **A. With the rest of them out there in**
14 **North Dakota.**

15 Q. Did Ingersoll-Rand ever object to your
16 use of Pavercat?

17 **A. No.**

18 Q. Mr. Jones, you previously testified
19 that Probst used PC VM as an attachment to a
20 skid-steer loader; is that correct?

21 **A. Yes.**

22 Q. What was the function of that
23 attachment?

24 **A. It fit on the attachment plate on the**
25 **front of the skid steer and would clamp a row or a**

1 band of pavers off of a pallet for transport to the
2 laying edge.

3 Q. If a contractor wanted to perform that
4 function today, what kind of an attachment would they
5 use? Is that a product that you could supply them
6 with?

7 A. We can supply them with a PC VM, but we
8 don't recommend it.

9 Q. Why is that?

10 A. Long description of what happens now.
11 As the process of laying pavers first you prepare
12 your base whatever that might be, aggregate base or
13 so on, then you screed loose sand to a specified
14 depth and then lay the pavers on top of that sand.
15 Until the pavers have been passed over with a
16 compactor and passed over with swept sand it can't
17 handle much load. The amount of pounds per inch load
18 of a skid steer is typically too heavy not to create
19 much damage during this fragile time after you have
20 laid the pavement and prior to impacting the joints.
21 Also as the skid steer turns one wheel must move in
22 opposite direction of the other which is fine once it
23 has been tapped and sanded and swept and ready for
24 heavy traffic, but that area that hasn't been is
25 delicate and therefore shifts.

1 Q. Is there some type of machinery that
2 you would recommend performing that function?

3 A. Pavercart.

4 Q. At the educational seminars that Pave
5 Tech puts on, how did you use the skid steer
6 equipment that Ingersoll-Rand supplied?

7 A. We would typically use it in two
8 fashions. First and foremost would be in trying to
9 describe the proper type of equipment and operation
10 of that equipment for excavation and material
11 movement, in other words aggregate base and sand.
12 The other use would be material handling describing
13 or demonstrating the proper size of equipment
14 necessary to do proper safe material handling.

15 Q. Since the Pavercat product is not
16 currently available for purchase through you, what
17 type of machine would you recommend using to perform
18 the function that the Pavercat product performed?

19 A. Currently we would recommend the
20 Pavercart. Depending on the size of the project you
21 would either use the Pavercart or a skid steer, which
22 is normal to have on a project, to move the pallets
23 of the material close to the laying edge but not on
24 the unprepared area or unfinished area.

25 Q. So am I correct in understanding your-

1 testimony that you would use a skid-steer loader as a
2 preparatory step to using the pave cart --

3 **A. Pavercart.**

4 Q. -- Pavercart in performing its
5 function?

6 **A. The Pavercart brings a segment of**
7 **material off the pallet to the edge and helps to**
8 **distribute it because if you brought the entire**
9 **pallet to the laying edge and laid it on as that you**
10 **would get a blob of color. So if you bring it close**
11 **the Pavercart then peels off one row at a time and,**
12 **if done correctly, mixes from various pallets along**
13 **the edge giving you a full depth of color.**

14 Q. Am I correct in understanding your
15 testimony to mean that you would use the skid-steer
16 loader prior to using the Pavercart?

17 **A. Typically, yes.**

18 Q. Does Pave Tech distribute or sell any
19 skid-steer loaders?

20 **A. No.**

21 Q. Mr. Jones, going back to Pave Tech's
22 association with Probst -- am I saying that right?

23 **A. Probst.**

24 Q. Does Pave Tech have any written
25 agreements with Probst?

1 **A. I'm sure we did.**

2 Q. Do you recall what it is that you did?

3 **A. No.**

4 Q. When you say we, who are you referring
5 to?

6 **A. I would be referencing myself and my**
7 **attorney, Mike O'Loughlin.**

8 Q. Do you recall what the results of those
9 searches or investigations were?

10 **A. I can't recall.**

11 **(Whereupon, Jones Deposition**
12 **Exhibits No. 1 and 2 were marked**
13 **for identification.)**

14 Q. Mr. Jones, I have handed you what has
15 now been marked as Petitioner's Exhibit 1. Can you
16 identify Petitioner's Exhibit 1? Have you seen this
17 document before?

18 **A. (Reviewing.) Specifically, I can't**
19 **recall.**

20 Q. Okay. Well, Petitioner's Exhibit 1 is
21 a copy of Petitioner's Amended Notice of Deposition.

22 MS. INNIS: I am remiss in not doing
23 this earlier but it is my understanding that
24 Mr. Jones is appearing today as the 30B6 witness for
25 this deposition; is that correct?

1 MR. O'LOUGHLIN: In my view Mr. Jones
2 is the best and most qualified 30B6 witness, but
3 there was prior discussion of conducting that, at
4 least in part, through another employee of Pave Tech
5 named Robert Cramer. As far as I know the decision
6 of whether Cramer will be deposed is yet to be made.

7 MS. INNIS: I believe Mr. Cramer was
8 going to be the 30B6 directed primarily toward the
9 trade show advertisements.

10 MR. O'LOUGHLIN: That is his primary
11 knowledge.

12 MS. INNIS: And for the majority of the
13 other deposition topics it will be Mr. Jones?

14 MR. O'LOUGHLIN: That is correct.
15 Although, Mr. Jones is also knowledgeable about the
16 trade show history and usage.

17 BY MS. INNIS:

18 Q. Mr. Jones, I hand you what has now been
19 marked as Petitioner's Exhibit 2. Can you identify
20 Petitioner's Exhibit 2?

21 A. **About six pounds of paper.**

22 Q. Have you seen this document before?

23 A. **(Reviewing.) Not that I recall.**

24 Q. Would you agree, Mr. Jones, that
25 Petitioner's Exhibit 2 happens to be a trademark

1 and forestry equipment, namely, backhoes," etcetera;
2 do you see that reference?

3 **A. Yes.**

4 Q. Are you familiar with the use and
5 registration of the Enviocat mark for these goods?

6 **A. No.**

7 Q. Are you aware of whether or not
8 Caterpillar objected to the use or registration of
9 this mark?

10 **A. No.**

11 Q. Would Caterpillar's successful
12 objection to that mark have changed your behavior in
13 any manner in selecting or adopting the mark
14 Pavercat?

15 **A. Are you speaking of the term Enviocat?**

16 Q. Sure.

17 **A. Nothing other than that they list their
18 services as very similar to the line of products that
19 Caterpillar offers.**

20 Q. Mr. Jones, would you agree with me that
21 the segmental paving industry is a subset or related
22 to the landscaping industry?

23 **A. That's a difficult one to answer.**

24 Q. How so?

25 **A. Because our industry as it's been**

1 evolving did not start out with the landscaping
2 industry in general. It has become an offering of
3 the landscaping industry for residential work, but in
4 general is really -- the term hardscaping has evolved
5 to describe what's going on. In other words, it's
6 the hard surfaces, segmental pavements, retaining
7 walls, all the permanent structures involved in
8 exterior use. So that's why I'm saying it's
9 difficult. Are there landscapers involved in our
10 business? Yes. Is it landscaping? No.

11 MS. INNIS: Could you read back his
12 answer?

13 (The requested portion of the
14 record was read by the reporter.)

15 Q. Mr. Jones, why did Pave Tech choose to
16 exhibit at the World of Concrete show?

17 A. Originally or during that one
18 demonstration or could you be more specific?

19 Q. Let's take both of those. Originally?

20 A. We're a very small-focused industry.
21 We were trying to find customers for our products.

22 Q. What type of customers did you hope to
23 find at the World of Concrete show?

24 A. People that installed segmental paving.

25 Q. Do you know generally what other types

1 of companies exhibited at the World of Concrete show?

2 **A. Pretty much everybody in the**
3 **construction industry.**

4 Q. Would you agree, Mr. Jones, that your
5 customers or potential customers were a subset of the
6 construction industry?

7 **A. Yes.**

8 Q. Do you know whether or not there were
9 any manufacturers of skid-steer loaders exhibiting at
10 the World of Concrete show?

11 **A. Always.**

12 Q. Are you aware of whether or not
13 Caterpillar exhibits its products at the World of
14 Concrete show?

15 **A. Yes.**

16 Q. How are you aware of that?

17 **A. Their presence is rather large.**

18 Q. Mr. Jones, are there hydraulic
19 attachments that are available to be used with the
20 PaverCat product?

21 **A. Yes.**

22 Q. Can you identify those attachments and
23 their functions in lay terms?

24 **A. The main one would be similar to the**
25 **PC VM which was a device attached to the front of a**

1 skid steer but in this case attached to the front of
2 the specific machine for clamping a row or maybe
3 perhaps -- depending on the size of the paving stone,
4 paving brick -- up to two rows of material and
5 carrying it to the laying edge. That would be the,
6 you know, the clamp for the pavers. Another unit was
7 a small rotary sweeper for sweeping sand into the
8 joints of the paving stones.

9 Q. Can that attachment be used with a
10 skid-steer loader?

11 A. No.

12 Q. Are there other attachments available
13 to be used with skid-steer loaders?

14 A. Not specifically, no. There are
15 sweepers for skid-steer loaders but their purpose is
16 cleaning and not sweeping in the sand.

17 Q. What about grippers?

18 A. Other than my previous reference to the
19 PC VM, again, that's a tool -- that's a piece of
20 equipment that was requested by some people that
21 wanted to try to use skid steer equipment for use
22 with paver installation but then the equipment was
23 not appropriate. The weight and the load and the
24 steering action made it inappropriate for use.

25 Q. I understand, Mr. Jones, that it's your

1 testimony that you believe that skid-steer loaders
2 are not the appropriate piece of equipment to be
3 performing that function, correct?

4 **A. Yes.**

5 Q. Are you aware however that there are
6 contractors and others out there that do use
7 skid-steer loaders to perform that function?

8 **A. Which function are we speaking of?**

9 Q. Well, I'm going back to your previous
10 answer to the question two questions ago.

11 **A. Okay.**

12 MS. INNIS: Please read that back.

13 (The requested portion of the
14 record was read by the reporter.)

15 **A. And it was inappropriate for use. It**
16 **would cause rutting of the pavement. As I said in my**
17 **previous testimony Pave Tech in North America has**
18 **never sold one of those attachments, the PC VM, for**
19 **the front of a skid steer because of the inability of**
20 **the skid steer to do its job.**

21 Q. Am I correct in understanding your
22 testimony that potential customers have inquired
23 about purchasing that attachment for use with a
24 skid-steer loader?

25 **A. Yes.**

1 MS. INNIS: Can we take a short break?

2 (A brief recess was taken.)

3 Q. Mr. Jones, does Pave Tech own any
4 skid-steer loaders for use in its business?

5 A. Yes.

6 Q. Do you know what brand they are?

7 A. Bobcat, Melroe.

8 Q. What do you use them for?

9 A. Material movement, grading of gravel
10 areas, snow removal.

11 Q. Does Pave Tech use any attachments with
12 a skid-steer loader in conducting its business?

13 A. These machines are used as kind of a
14 maintenance tool for us. I wouldn't say it's used in
15 conducting our business. It's a property maintenance
16 tool for us. Yes, we do use attachments for pallet
17 forks and we have buckets both for snow and for dirt.
18 The only other attachment we currently own is a
19 leveling plate that fits between the skid-steer
20 loader and the bucket which allows you to tilt the
21 bucket right or left to do offset grading.

22 Q. Does Pave Tech own any other motorized
23 vehicles that it uses in connection with its business
24 aside from an automobile?

25 A. Are you talking about trucks? I am a

1 **little confused.**

2 Q. Let's start with forklifts.

3 A. We own a Komatsu forklift and a
4 **Caterpillar forklift. I'm a customer.**

5 Q. How do you use the forklifts in
6 connection with the business?

7 A. The forklift is used at our
8 **distribution center in normal use moving materials**
9 **and in receiving shipments, consolidating shipments,**
10 **shipping stuff out.**

11 Q. Aside from trucks and forklifts, does
12 Pave Cat own any other motorized vehicle --

13 A. Do you mean Pave Tech?

14 Q. Pave Tech, excuse me. Does Pave Tech
15 own any other motorized vehicles that it uses in
16 connection with its business?

17 A. No.

18 Q. Any mini excavators or anything like
19 that?

20 A. No.

21 MS. INNIS: Can we mark this as an
22 exhibit, please?

23 (Whereupon, Jones Deposition
24 Exhibit No. 3 was marked for
25 identification.)

1 Q. Mr. Jones, I am now handing you a
2 document which has been marked as Petitioner's
3 Exhibit 3. Can you identify Petitioner's Exhibit 3?

4 A. **(Reviewing.) By scanning through it**
5 **I'm looking at it as the filing of the trademark.**

6 Q. And you were involved in the filing of
7 the Pavercat application to register the trademark,
8 correct?

9 A. **To the extent that I was requested to**
10 **participate by my attorney.**

11 Q. Do you recall signing a trademark
12 application to register the Pavercat mark?

13 A. **Specifically, no.**

14 Q. The mark Pavercat was applied to be
15 registered at your instruction; is that correct?

16 A. **Yes.**

17 Q. Do you recall, Mr. Jones, whether or
18 not at any time during the registration process
19 whether a potential objection or conflict with
20 Caterpillar Tractor Company was discussed?

21 A. **Nothing specific to my memory, no.**

22 Q. Do you recall anything in general?

23 A. **No.**

24 Q. Do you recall whether or not there were
25 any discussions with the trademark examiner about a

1 there was a likelihood of registration with the
2 Pavercat trademarks?

3 **A. No.**

4 Q. Since that initial discussion, have you
5 had any discussion with anyone at the Probst company
6 about the Caterpillar marks?

7 **A. No.**

8 Q. Mr. Jones, do you know what an asphalt
9 paver is?

10 **A. Yes.**

11 Q. What is that?

12 **A. That is a machine to spread hot asphalt**
13 **in construction of an asphalt roadway.**

14 Q. Do you know what a hydraulic broom is?

15 **A. Yes.**

16 Q. What is that?

17 **A. Typically, it is a hydraulic-powered**
18 **rotary broom to sweep pavements clean.**

19 Q. Could that be used in connection with
20 the skid-steer loader?

21 **A. Yes.**

22 Q. Do you know what pallet forks are?

23 **A. Yes.**

24 Q. What are they?

25 **A. Typically, they refer to an attachment**

1 for skid-steer or front-end loaders that allows that
2 piece of equipment to pick up palletized goods.

3 Q. Are pavers palletized goods?

4 A. Sometimes.

5 MS. INNIS: Could you mark this as an
6 exhibit?

7 (Whereupon, Jones Deposition
8 Exhibit No. 4 was marked for
9 identification.)

10 Q. Mr. Jones, I hand you a document which
11 has been marked as Petitioner's Exhibit 4. Can you
12 identify Petitioner's Exhibit 4?

13 A. (Reviewing.) It looks like copies of
14 the publication called the Show Daily at the World of
15 Concrete.

16 Q. Is this a newsletter that is put out in
17 connection with the World of Concrete show that you
18 previously testified about?

19 A. It's put out previously following each
20 of the days of the show -- wait a minute. I'm trying
21 to remember. They produce these things to give
22 current information as to what's going on at the
23 trade show.

24 Q. Directing your attention to the upper
25 right-hand corner of this document where it says

1 it was around this time. It was within twelve months
2 of this period, I believe, where we -- on occasion
3 we've been asked to help on various television shows
4 with the Home Time production.

5 Q. This is a local show?

6 A. It is a national show, but it is
7 produced locally. Again, I don't recall the exact
8 dates. I don't recall if it was before or after
9 this, but I think one of the first uses was the Home
10 Time show. We had this unit on site and I think
11 that's the first time we'd applied the graphics and
12 the trade name to that product at that time.

13 Q. Mr. Jones, turning your attention back
14 to I believe it's Petitioner's Exhibit 3. About
15 midway through the PTO file wrapper there's a
16 document that is entitled Declaration Under
17 37 C.F.R. 2.66. Again, these aren't number but it's
18 page 14 of that fax; do you see it?

19 A. Yes.

20 Q. And then again turning your attention
21 to paragraph 3, in the parenthesis there it reads,
22 "Stating that the mark had been first used on
23 February 23, 2000 and had been first used in
24 interstate commerce on February 23, 2000;" do you see
25 that language?

1 **A. Yes.**

2 Q. Do you know what first use that
3 language is referring to?

4 **A. Obviously, it's referring to the World**
5 **of Concrete.**

6 (Whereupon, Jones Deposition
7 Exhibit No. 5 was marked for
8 identification.)

9 Q. Mr. Jones, I'm handing you what has now
10 been marked as Petitioner's Exhibit 5, which is
11 entitled Respondent Pave Tech's Answers to
12 Petitioner's First Set of Interrogatories, and
13 directing your attention to bates number PT00003
14 interrogatory number 3.

15 **A. (Reviewing.) Yes.**

16 Q. Where it states, "Describe respondent's
17 first use of the mark Pavercat, as a trademark or
18 otherwise," etcetera; do you see that?

19 **A. Yes.**

20 Q. And right below that is the answer
21 which begins, "The Pavercat paver installation
22 machine and the Pavercat name were first used by Pave
23 Tech, Inc. at the World of Concrete 2000 trade show
24 on February 23, 2002 in Orlando, Florida;" do you see
25 that language?

1 **A. Yes.**

2 **Q. Is it your testimony as we sit here**
3 **today that that indeed was the first use of the mark**
4 **Pavercat?**

5 **A. I think it was the first public use of**
6 **it. I don't know that -- again, as I mentioned**
7 **earlier, I don't recall the exact timing of the**
8 **schedule of the Home Time use. It was in the**
9 **springtime. I was just trying to recollect when the**
10 **actual shoot was.**

11 **Q. Would it be fair to say, Mr. Jones,**
12 **that the Paver Tech was not included in the Home Time**
13 **broadcast?**

14 **A. Do you mean the Pavercat?**

15 **Q. Yes. Would it be fair to say the**
16 **Pavercat was not used in the Home Time broadcast in**
17 **early 2000 and that, to the best of your**
18 **recollection, the exhibition of the Pavercat at the**
19 **2000 World of Concrete show was, in fact, the first**
20 **public use of Pavercat by Pave Tech?**

21 **A. The Pavercat was not used in the**
22 **broadcast of the Home Time show I do know that. As**
23 **an arrangement for working for Home Time they did**
24 **shoot some video of the Pavercat for us for our own**
25 **private use.**

1 Q. Okay. I understand what you're saying
2 now. Was that pursuant to -- for lack of a better
3 term -- a barter arrangement that you provided some
4 service for them so they would provide some
5 individual taping services for you for future
6 promotion of Pavercat?

7 A. **And other products, yes.**

8 Q. Directing your attention back to
9 Petitioner's Exhibit 4, there's a picture there; do
10 you see that?

11 A. **(Reviewing.) Yes.**

12 Q. Can you describe what is in that
13 picture?

14 A. **The picture in the upper right-hand**
15 **corner shows two Probst supplied pieces of machinery.**

16 Q. Can you identify those pieces of
17 machinery?

18 A. **The unit on the right side of the**
19 **picture is a Pavercat/rollmops. The unit on the left**
20 **is what we call a Pavemax -- their model number**
21 **VM 204.**

22 Q. Can you describe the demonstration of
23 Pavercat that was done at the World of Concrete show
24 in 2000?

25 A. **There's a limited amount of time.**

1 Basically, there is a mega demo held every day of the
2 last three days of the show where they have bleachers
3 set up and people can come in -- it's on the schedule
4 -- and look at some sort of activity. It's based on
5 the interest of the attendees and it's decided upon
6 well before the show. The companies are invited to
7 participate in hosting these events, like Pave Tech
8 was invited to host the paver installation demo
9 segment. We then proceeded to build discreet areas
10 within the demonstration area as to show the
11 different steps necessary to do a proper paver
12 installation.

13 Q. Did you partner with any other
14 companies to complete this demonstration?

15 A. Other than getting some support from
16 Melroe Bobcat for their machine and operators and
17 Bomaz for their compaction equipment.

18 Q. Let me stop. What kind of support and
19 machines did you get from Melroe?

20 A. As mentioned before there was skid
21 steer equipment and I don't remember if there was a
22 mini excavator or not.

23 Q. Identify the second company again.

24 A. Bomaz, B-o-m-a-z.

25 Q. What sort of equipment did you get from

1 them?

2 **A. Compaction equipment.**

3 **Q. What is compaction equipment?**

4 **A. The equipment to compact soils and**
5 **aggregates; thump, thump, thump. Probst also**
6 **provided an operator for the demo for their VM 204.**

7 **Q. Who operated the Pavercat?**

8 **A. I do not remember.**

9 **Q. Was it a Pave Tech employee or someone**
10 **from one of these other companies?**

11 **A. No, it would have been a Pave Tech**
12 **permanent or temporary employee.**

13 **Q. Is it possible that it was Bob Cramer?**

14 **A. Possibly.**

15 **Q. Is there a more probable suspect?**

16 **A. We had about fourteen guys working for**
17 **us for that mega demo, maybe more including the other**
18 **companies, so I don't think anyone is going to**
19 **remember that.**

20 **Q. How many employees does Pave Tech have?**

21 **A. Permanent employees we have, let's see,**
22 **eight not including myself or my wife.**

23 **Q. Is there one person whose primary**
24 **responsibility is to deal with customer sales and**
25 **inquiries?**

1 Q. Could you tell us typically how many of
2 them would be in stock?

3 A. I think the most we ever had at any one
4 time was two.

5 Q. Do you recall when that inventory of
6 Pavercat products was depleted?

7 A. I think we made a conscious decision
8 about two years ago -- and this was in communication
9 with Probst -- that we decided not to stock that
10 item.

11 Q. Do you have any current plans to
12 restock that item, the Pavercat product?

13 A. No plans, no.

14 Q. Did you attend the World of Concrete
15 show in February of 2000?

16 A. Yes.

17 Q. Mr. Jones, did you peruse the World of
18 Concrete show in February of 2000?

19 A. Yes.

20 Q. Do you recall seeing any Caterpillar
21 products displayed at that particular trade show?

22 A. I am sure I did, but specifically I
23 don't remember.

24 Q. Do you remember what those products
25 were?

1 **A. No.**

2 Q. Do you recall whether John Deere
3 displayed any products at that particular trade show?

4 **A. Again, I'm sure they did. I am just**
5 **not that specific.**

6 Q. Were John Deere products involved at
7 all in the mega demo that Pavercat hosted?

8 **A. There was a large tracked backhoe that**
9 **was part of the demo, and I don't recall if that was**
10 **a John Deere or Komatsu or Caterpillar.**

11 Q. I take it that you are aware that
12 Caterpillar manufactures a tracked backhoe?

13 **A. Yes.**

14 Q. Mr. Jones, can you tell me what Pave
15 Tech's procedure is for publishing the price list for
16 its products?

17 **A. Well, the procedure for --**

18 Q. How often it's published, what goes in
19 there, just, you know, a general description of them.

20 **A. Yes. Typically, and I would say this**
21 **has been for at least the last five years, six years,**
22 **I don't remember exactly, we're bound to the practice**
23 **of listing our products in a balanced price sheet.**
24 **Listing our products on that we were able to price on**
25 **a yearly basis. With other ones that were either**

1 Q. So you -- you meaning Pave Tech -- had
2 the ability to order Pavercat from the manufacturer
3 but not pay for it until that particular product was
4 sold to a purchaser?

5 A. Yes. Most of the time in relation to
6 Pavercat, yes.

7 Q. To the best of your recollection,
8 Mr. Jones, aside from the World of Concrete
9 exhibition that we have just been discussing, did you
10 promote the Pavercat product in any other manner in
11 the year 2000?

12 A. We eventually added some of the
13 videotape from Home Time to our tool video. I don't
14 recall exactly when we did that. It was sometime
15 after we had shot that segment that I told you about
16 earlier.

17 Q. What is your tool video?

18 A. It's a videotape that we have showing a
19 lot of the different tools that we offer for sale.
20 Occasionally we have edited that video over the years
21 to include new products.

22 Q. Can you tell me what you do with that
23 videotape, how it is used by Pave Tech?

24 A. We will send it out free of charge to
25 potential customers, customers, and distributors as a

1 **sales and marketing tool.**

2 Q. Do you know how much inventory of the
3 videotape you typically keep?

4 A. **On the tool video we'll typically send**
5 **out a few thousand copies a year.**

6 Q. Do you annually or semiannually or
7 whatever provide edited updates to the tool video?

8 A. **I wish we could. It's been one of**
9 **those things where it's very difficult to assemble**
10 **all that stuff. But we have done it on, I believe,**
11 **at least one, maybe two occasions since the original**
12 **tape was shot.**

13 Q. When was the original tape shot?

14 A. **I can't tell you that. It's going to**
15 **be either '94 or '95.**

16 Q. What were the occasions where you
17 edited or modified the videotape?

18 A. **We did once when we moved from**
19 **Bloomington to Prior Lake and that was in '99 or**
20 **2000, I think. And then we did it again, I believe,**
21 **after we had negotiated some video shooting from Home**
22 **Time on some of our products.**

23 Q. Does the current version of your tool
24 videotape contain any references to Pavercat?

25 A. **Yes.**

1 Q. Have you attempted to modify the
2 videotape in any manner since you are not currently
3 selling Pavercat?

4 A. Not yet.

5 Q. Do you have plans to do so?

6 A. When we switched -- we now supply
7 mostly CD videos instead of the VHS tapes. I cannot
8 recall when we digitized the videotape if we -- I do
9 not recall whether we edited out the Pavercat or not,
10 but the plan would be to take it out, yes.

11 Q. And that would be because you no longer
12 are currently selling that product, correct?

13 A. Correct.

14 MS. INNIS: Can you mark this?

15 (Whereupon, Jones Deposition
16 Exhibit No. 6 was marked for
17 identification.)

18 Q. Mr. Jones, I'm handing you a videotape
19 which has been marked Petitioner's Exhibit 6. Can
20 you identify Petitioner's Exhibit 6 to the extent
21 that you can without actually watching the videotape?

22 A. It looks like a current version.
23 Again, without actually viewing it I couldn't tell
24 you whether it was the most current version of what
25 we have available or not.

1 Q. Do you recall your attorney telling you
2 to gather some materials in connection with the
3 discovery requests in this proceeding?

4 A. Yes.

5 Q. Did you provide your attorney with the
6 most current version of the videotape at that time?

7 A. I believe we did.

8 Q. Does Petitioner's Exhibit 6 at least
9 appear to be what you provided your attorney with in
10 connection with these proceedings?

11 A. Yes.

12 (A brief recess was taken.)

13 Q. Mr. Jones, you also mentioned CDs that
14 Pave Tech uses to promote its products; is that
15 correct?

16 A. Yes.

17 Q. Can you describe just generally how
18 these CDs are used as a promotional tool?

19 A. They're CD videos. Some were
20 originally created on VHS and digitized and then put
21 on CD. Other more recent ones have been specific to,
22 you know, have been strictly digital.

23 Q. Who receives these CDs?

24 A. Customers and potential customers of
25 Pave Tech and its products.

1 Q. Are you aware of how many of these CDs
2 might be in inventory, or is it now digitized to the
3 point where you can create them on request?

4 A. We go through so many of them.
5 Typically, an order quantity of CD video from us is
6 500 to 5,000.

7 Q. Who do you order them from?

8 A. Varying sources depending on who
9 produced them.

10 Q. Are you aware of whether or not the
11 current version of this CD contains any references to
12 the Pavercat product?

13 A. No, I can't honestly say that I know
14 that or not.

15 Q. Do you have any plans to edit out any
16 references to the Pavercat product since you are no
17 longer selling that product?

18 A. There's always a desire to keep
19 information as updated as possible. Videos and those
20 things are probably a lower priority than our
21 website. But we have lots of new products that need
22 to be added to the video at which time we would
23 probably look at deleting, eliminating, or modifying
24 any other references that are outdated.

25 Q. Would it be correct to say, Mr. Jones,

1 that any references to Pavercat products would, in
2 fact, be outdated at this point?

3 **A. Today, yes.**

4 Q. And that would be true for the
5 foreseeable future?

6 **A. There's no plans currently. There has**
7 **been discussion but no plans.**

8 Q. What has been the discussion in that
9 regard?

10 **A. We see a need and a value of that type**
11 **of piece of equipment or machinery. But the North**
12 **American market is a small market compared to the**
13 **European market and the European market, being as**
14 **depressed as it is, does not provide a sales capacity**
15 **or the American market alone in itself does not**
16 **supply enough potential to continue with any**
17 **development.**

18 Q. Mr. Jones, you mentioned Pave Tech's
19 website. Can you describe to me why Pave Tech has a
20 website?

21 **A. A website as we've found, as long as we**
22 **have somebody with capability within the company to**
23 **manage it and make modifications or rapid changes, is**
24 **the best way to get changes to our customers.**

25 Q. Does Pave Tech currently modify or make

1 **websites that doesn't do advertising that is a great**
2 **objection of mine.**

3 Q. Do you know whether or not a customer
4 or potential customer typed the mark "cat" into an
5 internet search engine whether Pave Tech's website
6 would come up?

7 A. I wouldn't think so.

8 (Whereupon, Jones Deposition
9 Exhibit No. 7 was marked for
10 identification.)

11 Q. Mr. Jones, I am handing you a copy of
12 what's now been marked Petitioner's Exhibit 7. Can
13 you identify Petitioner's Exhibit 7?

14 A. (Reviewing.) It looks like a printout
15 of our website.

16 Q. If you look at the bottom right-hand
17 corner of the printout there's a date there,
18 2/17/2004; do you see that?

19 A. Yes.

20 Q. Would you agree, Mr. Jones, that this
21 appears to be a printout of the Pave Tech website
22 that was printed on February 17th of 2004?

23 A. Yes.

24 Q. Directing your attention to -- it looks
25 like in the hard copy there happens to be what I'm

1 **something that we've had fixed very well either.**

2 Q. Turning to page 3 of the website
3 printout you'll see that there's a section under the
4 heading that says Motorized Equipment; do you see
5 that?

6 A. **Yes.**

7 Q. And directing your attention to the
8 products listed under there --

9 A. **Yes.**

10 Q. -- do you see a listing for Pavercat?

11 A. **Yes, I do.**

12 Q. Can you tell me what that listing is
13 referring to?

14 A. **Referring to the following printed page**
15 **that shows Pavercat two-wheel drive and four-wheel**
16 **drive.**

17 Q. Does this document refresh your
18 recollection as to whether or not Pave Tech currently
19 promotes the Pavercat product on its website?

20 A. **Well, it's quite obvious that it's**
21 **still there. Again, we base our changes and stuff on**
22 **qualities that we feel are important. This obviously**
23 **has been overlooked or put on the back burner. Our**
24 **changes to the website are more immediate to selling**
25 **goods that have more value to us.**

1 Q. Turning your attention to I guess it's
2 the last and second to last page that is printed out
3 in this exhibit, do you see there's a photograph
4 there?

5 A. Yes.

6 Q. There is a machine depicted in the
7 photograph. Can you identify that for me?

8 A. That's what we call our Pavercat.

9 Q. There's a person operating the
10 Pavercat. Can you identify that person?

11 A. That would be Bob Cramer.

12 Q. Turning to the very last page there's
13 some text underneath the photograph that says,
14 "Jobsite material handler. Great for light grading,
15 sand and paver transport and sand sweeping,"
16 etcetera; do you see that?

17 A. Yes.

18 Q. Do you know who offered that text?

19 A. It could have been me. I don't recall.

20 Q. Am I correct in understanding that this
21 text is meant as a description of potential functions
22 for Pave Tech's Pavercat product?

23 A. Yes.

24 Q. And then below that there is some
25 language that is partially cut off but seems to

1 indicate that a customer or potential customer could
2 call for a catalog, video and pricing; do you see
3 that?

4 **A. Yes.**

5 Q. The reference to a catalog, can you
6 tell me what that is?

7 **A. The only catalog sheet we ever had for**
8 **Pavercat was one that was actually, I believe,**
9 **produced by Probst that we would use to send out.**
10 **The video, of course, would have been the video that**
11 **was part of that modification to the original tool**
12 **video. And pricing would be, again, I don't believe**
13 **we ever published our regular annual printed pricing**
14 **with the Pavercat. I could be wrong, but I don't**
15 **believe so since it was basically a quoted item based**
16 **on currency exchange.**

17 Q. Are you aware of whether or not Pave
18 Tech would have a copy of the catalog or product
19 sheet I think you just described in inventory or
20 stock currently?

21 **A. You mean for use in mailing out?**

22 Q. Yes.

23 **A. No, we do not.**

24 **MR. O'LOUGHLIN: Are you referring to**
25 **the Probst catalog he mentioned a moment ago?**

1 MS. INNIS: Correct.

2 A. No, we do not.

3 Q. Does Pave Tech have in inventory any
4 marketing or advertising materials other than the
5 CD-roms and video that you just testified about that
6 promote the Pavercat product?

7 A. No.

8 Q. If I understand your previous
9 testimony, Mr. Jones, is it correct that in Pave
10 Tech's desire to keep its website current that the
11 references to Pavercat that we just discussed may be
12 deleted from Pave Tech's website?

13 A. Yes.

14 Q. Do you have any idea when those changes
15 might be effectuated?

16 A. No.

17 Q. Could you describe for me how those
18 changes would be effectuated?

19 A. To me our most important thing on our
20 website is to make sure that our newest products are
21 on there because people are asking for them and
22 important information like safety sheets, which are a
23 legal requirement and a safety requirement. It is a
24 fairly extensive website with a lot of depth to it
25 and as you can see from the tabs at the top there is

1 **a lot of information so we don't always instantly see**
2 **things we need to clean up and update.**

3 Q. Can you tell me what steps it would
4 entail to delete the references to Pavercat?

5 A. **Just a simple mention to my media**
6 **person.**

7 Q. And that is something that could be
8 done easily and at your request?

9 A. **Yes.**

10 Q. Is there a material safety data sheet
11 associated with the Pavercat product?

12 A. **No.**

13 Q. Is that because the material safety
14 data sheet is only required of chemical products?

15 A. **It's a little bit more than chemical**
16 **products. It has to do with materials also such as**
17 **plastics. But, yes, it has to do with raw -- well,**
18 **not necessarily raw materials, but certain goods made**
19 **of particular materials and so on.**

20 Q. Are there safety sheets required to be
21 posted or given to purchasers or potential purchasers
22 of equipment such as Pavercat?

23 A. **One of the areas lacking with the**
24 **Pavercat was documentation and that was another one**
25 **of our reasons for not being necessarily entirely**

1 **happy with the product.**

2 Q. What sort of documentation was lacking?

3 A. **Spare parts, technical parts diagrams,**
4 **and operating instructions and maintenance**
5 **instructions.**

6 Q. Are those types of things typically
7 provided by the manufacturer of the product?

8 A. **Typically they would be, yes.**

9 Q. Who provided them in the case of the
10 Pavercat product that Pave Tech sold?

11 A. **We didn't get a lot of information**
12 **supplied with the machinery; that was one of our**
13 **problems.**

14 Q. Did any customers request such
15 information?

16 A. **Yes.**

17 Q. Do you recall who those potential
18 customers were?

19 A. **No.**

20 Q. Do you recall who any of those actual
21 customers were?

22 A. **Probably all of them.**

23 Q. What was Pave Tech's response to those
24 inquiries?

25 A. **To get specific information from Probst**

1 to answer the request or to walk them through our own
2 specific hands-on knowledge of the machines.

3 Q. Do you recall specifically what any of
4 those questions were or what they had to do with in
5 connection with the machine?

6 A. I think more to do with maintenance
7 than anything else.

8 Q. Did any customers raise any safety-
9 related issues in connection with the Pavercat
10 products?

11 A. Not to my knowledge.

12 Q. Are those the type of issues that would
13 come to your attention in connection with your
14 responsibilities at Pave Tech?

15 A. Yes.

16 Q. Would they also come to the attention
17 of Glenn?

18 A. They might.

19 Q. Would it depend on who the customer
20 was?

21 A. It would depend on who actually fielded
22 the call and got transferred the call.

23 Q. Did any customer or potential customer
24 have any discussions with you regarding product
25 modifications of Pavercat products?

1 **A. You will have to be clearer on that.**

2 Q. Did anybody inquire as to whether the
3 product could be re-tooled?

4 **A. For?**

5 Q. For any particular purpose.

6 **A. Yes, I know there were some discussions**
7 **on that.**

8 Q. What were the nature of those
9 discussions?

10 **A. I can only be a little vague on this**
11 **because contractors always trying to make something**
12 **work for everything, which doesn't work. I know on**
13 **more than one occasion they asked if it was possible**
14 **to lift a pallet of pavers with some sort of fork**
15 **arrangement which, of course, we then said no.**

16 Q. Would they need a forklift to do that?

17 **A. Yes.**

18 Q. Have any customers expressed any
19 dissatisfaction of product performance of Pavercat
20 products?

21 **A. No.**

22 Q. Is that the type of inquiry that would
23 typically come to your attention?

24 **A. Yes.**

25 **(Whereupon, Jones Deposition**

1 **Exhibit No. 8 was marked for**
2 **identification.)**

3 Q. Mr. Jones, I hand you what's now been
4 marked as Petitioner's Exhibit 8. Can you identify
5 Petitioner's Exhibit 8?

6 A. **It is a copy of the Probst Pavercat**
7 **brochure.**

8 Q. You previously testified in connection
9 with the Pave Tech website that there was a catalog
10 or product sheet by Probst in connection with the
11 Pavercat product, correct?

12 A. **Yes.**

13 Q. Is Exhibit 8 that catalog or product
14 sheet that you previously testified about?

15 A. **I believe it is, yes.**

16 Q. Did you have any input into the
17 creation of Petitioner's Exhibit 8?

18 A. **No.**

19 Q. Do you know who did?

20 A. **No.**

21 Q. How did Pave Tech acquire copies of
22 Petitioner's Exhibit 8?

23 A. **They mailed them to us.**

24 Q. Did Probst mail them to Pave Tech for
25 the purpose of distributing copies of Exhibit 8 to

1 customers and potential customers?

2 **A. Yes.**

3 Q. Do you recall whether Pave Tech
4 distributed copies of Exhibit 8 only upon request or
5 whether some mass mailings were done or how Pave
6 Tech, in fact, used its copies of Exhibit 8?

7 **A. We never looked at this as a product**
8 **for the average installer, contractor. I can't say**
9 **we didn't include it in a bigger mailing. But**
10 **Germany rarely supplied us with enough copies of any**
11 **literature to do mass mailings so it probably would**
12 **have been a targeted mailing to what we considered**
13 **larger contractors.**

14 Q. Directing your attention to the
15 photograph of the product on Exhibit 8; do you see
16 that?

17 **A. Yes.**

18 Q. Can you identify that product for us?

19 **A. That's the Pavercat.**

20 Q. It appears to me at least that this
21 particular rendition of the product is not branded
22 with the logo that you previously testified about,
23 correct?

24 **A. Yes, that seems to be quite true.**

25 **Those pictures were not taken in the US.**

1 Q. Directing your attention to underneath
2 the photograph there's some text that says Probst and
3 then there are some quotation marks around the word
4 Pavercat and then it says Universal Machine; do you
5 see that?

6 A. Yes, I do.

7 Q. Do you have some understanding as to
8 what the term "universal machine" means in connection
9 with Petitioner's Exhibit 8?

10 A. No.

11 Q. Does Pave Tech refer to or did it refer
12 to the Pavercat product as a universal machine?

13 A. No.

14 Q. Directing your attention to the text
15 that appears under the heading Bonuses of Owning a
16 Probst Pavercat; do you see that text?

17 A. Yes.

18 Q. And there are some points there and the
19 second point says, "Moving your paying blocks to the
20 laying face quickly, as the rollmops can run loose on
21 pavers. No need for a forklift;" do you see that?

22 A. It says it can run on loose pavers, not
23 run loose on pavers.

24 Q. Thank you for correcting me. Do you
25 see that language?

1 **A. Yes.**

2 Q. Do you have some understanding of what
3 that language means in connection with Exhibit 8?

4 **A. European paving is done a little**
5 **differently than over here. They typically lay**
6 **pavements with a thicker block or paving brick than**
7 **we do here. And they lay with a bedding material**
8 **which is larger aggregate sizing which allows heavier**
9 **equipment to be on top of unfinished areas. So for a**
10 **bigger job in Europe, like a street or a plaza, it**
11 **would be the normal to bring pavers to the laying**
12 **edge. The advantages of this machine over the**
13 **forklift is because it can do different other little**
14 **things, but in the US its weight is what gives it an**
15 **advantage.**

16 Q. Am I correct in understanding,
17 Mr. Jones, that Petitioner's Exhibit 8 was, in fact,
18 provided to customers in the United States by Pave
19 Tech?

20 **A. Yes.**

21 Q. Directing your attention a little
22 further down on Petitioner's Exhibit 8 there is an
23 e-mail address for North America distribution; do you
24 see that?

25 **A. Yes. Unfortunately, yes.**

1 Q. Can you describe for me, Mr. Jones, the
2 color of the Pavercat products sold by Pave Tech?

3 A. They were yellow.

4 Q. Were they always yellow?

5 A. Once Probst took over distribution I
6 think the shade of yellow changed to be more of an
7 orange-yellow to be more of the factory colors than
8 the original rollmops pale yellow. I can't be sure
9 but that is to the best of my recollection.

10 Q. On the Pavercat products that were sold
11 by Pave Tech, what was the color of the lettering?

12 A. I believe we did both blue and black.

13 Q. Was it a dark blue?

14 A. It would have been more of like a royal
15 blue. Navy was too dark.

16 Q. Was that color done to your
17 specifications?

18 A. Well, the gentleman that rents from us
19 at our distribution space has a sign company and he
20 has done some of our product lettering when we need
21 short-run stuff like for Pavermax or Pavercat because
22 we only sell a couple of those units per year. So
23 either it would be based on his faulty knowledge of
24 what we used in the past or something else so it was
25 inconsistent.

1 Q. What was his name?

2 A. John Dziekan

3 (Whereupon, Jones Deposition
4 Exhibit No. 9 was marked for
5 identification.)

6 Q. Mr. Jones, I hand had you a document
7 which has now been marked as Petitioner's Exhibit 9.
8 Can you identify Petitioner's Exhibit 9?

9 A. A copy of a printed 2001 manufacturers
10 version of our price sheet.

11 Q. What does a manufacturers version of
12 your price sheet mean?

13 A. You can't see it on here but there is a
14 color difference. We printed it in two colors.
15 Originally, the text was blue. And you can see there
16 is a column inside that says manufacturers discounted
17 price and that was typically printed in red. So it
18 would contain the manufacturers price in addition to
19 showing what contractors would typically pay.

20 Q. Would there also typically be a
21 contractor version of this price list?

22 A. Yes.

23 Q. Would the contractor version vary only
24 to the extent that it would not include the
25 manufacturers discount information?

1 **A.** I don't know what year we started a
2 distributed products version in addition to our
3 normal version, but some of our products are more
4 easily sold through distribution than others; for
5 instance, our chemical products and adhesive products
6 go more through distribution. So we had two
7 versions; one that contained everything that would
8 get mailed out, and for those markets with good
9 distribution on chemical and adhesive products we
10 would ship out the distributor markets copy.

11 **Q.** Directing your attention to bates
12 01713, do you see the heading under Motorized
13 Equipment?

14 **A.** (Reviewing.) Yes.

15 **Q.** Under that there's a reference to
16 Pavercat, correct?

17 **A.** Yes.

18 **Q.** Could you tell me what that reference
19 is to?

20 **A.** To the Pavercat.

21 **Q.** To the Pavercat product sold by Pave
22 Tech?

23 **A.** Yes.

24 **Q.** Again, there's a description next to
25 Pavercat that starts, "Jobsite material handler,"

1 etcetera; do you see that?

2 **A. Yes.**

3 **Q. Is that text meant to describe to the**
4 **folks receiving the price lists the functions**
5 **available?**

6 **A. It was to describe the activities of**
7 **the machine as in relation to a paver job.**

8 **Q. And then right below that there is text**
9 **that says, "Many options available;" do you see that**
10 **text?**

11 **A. Yes.**

12 **Q. Can you describe to me what that text**
13 **means in the context of this exhibit?**

14 **A. The different options available from**
15 **the manufacturer included the clamp unit which**
16 **grabbed the pavers, we also had a vacuum head which**
17 **hung off there that would lift concrete products like**
18 **curving units into place, there was also a**
19 **non-hydraulic sort of a straight broom attachment you**
20 **could push forward with, there was also a rotary**
21 **broom, and there were different size clamping feet**
22 **available based on special products. I'm just trying**
23 **to think of what else might have been there. I know**
24 **there were also clamping units because in Europe**
25 **there were special curving units.**

1 Q. Would a customer or potential customer
2 be able to use these attachments with another machine
3 like a skid-steer loader?

4 A. No.

5 Q. Would they be able to use these
6 attachments with any of the Bobcat machines that
7 you're familiar with?

8 A. No.

9 (Whereupon, Jones Deposition
10 Exhibit No. 10 was marked for
11 identification.)

12 Q. Mr. Jones, I am handing you a document
13 which has now been marked as Petitioner's Exhibit 10.
14 Can you identify Petitioner's Exhibit 10?

15 A. (Reviewing.) That is what we described
16 earlier, the Probst Pavercat PC VM, but I don't see
17 the VM on this one.

18 Q. Am I correct in understanding your
19 testimony that the product that is depicted in
20 Petitioner's Exhibit 10 is not the product that Pave
21 Tech distributed in connection with the use of the
22 Pavercat name?

23 A. That's correct.

24 Q. There's a machine that's depicted in
25 this exhibit. Do you know what that machine is?

1 **A. It's a Melroe Bobcat.**

2 **Q. Is that a skid-steer loader?**

3 **A. Yes, it is.**

4 **Q. Mr. Jones, there's some references on**
5 **Petitioner's Exhibit 10 to the designation PC; do you**
6 **see those?**

7 **A. Yes.**

8 **Q. Do you have some understanding as to**
9 **what PC stands for in connection with this exhibit?**

10 **A. Pavercat. Don't worry. If you are**
11 **confused, then you are no different than the rest of**
12 **my customers.**

13 **Q. How so?**

14 **A. Like I said, whenever the Germans add a**
15 **name to something it screws up their numbering system**
16 **and confuses everyone.**

17 **Q. If you look at Exhibit 10 it appears to**
18 **be what I am going to call a thumb print or a blown**
19 **up --**

20 **A. Of the thumbnail image up in the right**
21 **hand corner?**

22 **Q. Yes, correct.**

23 **A. Yes.**

24 **Q. Can you describe for me what's in that**
25 **thumbnail image?**

1 A. It just looks like it's a front-angled
2 picture of the Pavercat clamp clamping some -- this
3 obviously is a little bit fuzzy, but I'm assuming
4 just from what I'm looking at that those are pavers
5 it is squeezing together.

6 Q. Is this Pavercat clamp by Probst
7 currently a product in Pave Tech's inventory for
8 sale?

9 A. I don't believe we own one of those.

10 Q. Is it something that you are promoting
11 or selling to your customers? And by you I mean Pave
12 Tech.

13 A. As I explained in previous testimony,
14 the use of a skid steer on pavers is not acceptable
15 so, no, we do not promote it.

16 MS. INNIS: Mark this as an exhibit.

17 (Whereupon, Jones Deposition
18 Exhibit No. 11 was marked for
19 identification.)

20 Q. Mr. Jones, I am now handing you a
21 document that has been marked as Petitioner's Exhibit
22 11. Can you identify Petitioner's Exhibit 11?

23 A. (Reviewing.) A copy of our
24 manufacturers price list for 2002.

25 Q. There's a product that is depicted on

1 the front of this price list; do you see that?

2 **A. Yes.**

3 Q. Can you identify that machine?

4 **A. Probst Pavermax VM 204.**

5 Q. And then turning your attention to page
6 3 of this exhibit under the heading Motorized
7 Equipment --

8 **A. Where?**

9 Q. -- there is a reference to Pavercat; do
10 you see that?

11 **A. Yes.**

12 Q. Can you identify what that reference
13 refers to, what product?

14 **A. Identical to the last one which would
15 be the Pavercat.**

16 Q. The Pavercat machine versus the Probst
17 Pavercat attachment?

18 **A. We never promoted or listed as a
19 product for sale the Probst PC VM which was the skid
20 steer attachment. In none of our printed materials
21 will you find that reference. All of our materials
22 on Pavercat are references to that rollmops machine.**

23 Q. Do you recall, Mr. Jones, whether or
24 not 2002 was the last year that Pave Tech included
25 the Pavercat products as part of its price lists?

1 **A. I believe it was.**

2 **(Whereupon, Jones Deposition**
3 **Exhibit No. 12 was marked for**
4 **identification.)**

5 Q. Mr. Jones, I hand you a document that
6 has now been marked as Petitioner's Exhibit 12. Can
7 you identify Petitioner's Exhibit 12?

8 **A. (Reviewing.) Our manufacturers version**
9 **of a price list 2003.**

10 Q. Directing your attention to the second
11 page under Motorized Equipment --

12 **A. Okay.**

13 Q. -- am I correct in understanding that
14 previously this is where any reference to the
15 Pavercat product would be as part of Pave Tech's
16 price list?

17 **A. Yes.**

18 Q. So if it does not appear on the 2003
19 price lists that were produced in connection with
20 this proceeding, would it be fair to say that during
21 that period of time of 2003 you were not offering
22 that product for sale?

23 **A. That would be correct.**

24 MS. INNIS: Mark these as exhibits.

25 **(Whereupon, Jones Deposition**

1 Exhibits No. 13 and 14 were
2 marked for identification.)

3 Q. Mr. Jones, I am handing you two
4 documents which have been marked as Petitioner's
5 Exhibit 13 and Petitioner's Exhibit 14. Could you
6 first identify Petitioner's Exhibit 13?

7 A. (Reviewing.) Distributor markets price
8 list for 2003.

9 Q. And Petitioner's Exhibit 14?

10 A. (Reviewing.) Just our standard what we
11 now call our trade price list for 2003 which would
12 include contractor pricing.

13 Q. Petitioner's Exhibit 13, is that a
14 manufacturers price list?

15 A. No. That is a contractors price list
16 but eliminating the pricing on our commodity goods
17 that would normally go through distributors like
18 adhesives and chemicals.

19 Q. If you turn back, Mr. Jones, to
20 Petitioner's Exhibit 11, which is a manufacturers
21 price list, I believe; do you see that?

22 A. Yes.

23 Q. Would there also have been a
24 contractors price list?

25 A. Yes.

1 Q. That would contain the same information
2 that you just testified about in connection with
3 Petitioner's Exhibit 14?

4 A. Yes. The only difference is this
5 column would be absent from the contractors version.
6 The manufacturers discounted price column would be
7 missing from that contractors version.

8 Q. Would that be true with regard to the
9 price list, the manufacturers price list, that you
10 previously identified as Petitioner's Exhibit 9?

11 A. Would the same thing be true with that?

12 Q. Right.

13 A. Yes.

14 Q. Mr. Jones, does Pave Tech have a price
15 list for the year 2004?

16 A. We do now.

17 Q. Does that price list contain any
18 references to the Pavercat product?

19 A. No.

20 (Whereupon, Jones Deposition
21 Exhibit No. 15 was marked for
22 identification.)

23 Q. Mr. Jones, I am handing you a document
24 that has been marked as Petitioner's Exhibit 15. Can
25 you identify Petitioner's Exhibit 15?

1 **A. (Reviewing.) It looks like another**
2 **Probst promotional brochure on the Pavercat.**

3 **Q. How would this brochure be used by Pave**
4 **Tech?**

5 **A. Similar to the previous one that you**
6 **had provided which would be Exhibit 8.**

7 **Q. Did you have any input into the**
8 **creation of Petitioner's Exhibit 15?**

9 **A. We must have had some input because the**
10 **e-mail changed, but not a lot of input because it's**
11 **still the wrong e-mail.**

12 **Q. Do you know to whom communications at**
13 **this e-mail address would be directed to?**

14 **A. Support at Pave Edge. I believe we**
15 **send those to Dina Koegler (phonetic) our office**
16 **manager.**

17 **Q. Where is she located?**

18 **A. Prior Lake.**

19 **Q. Directing your attention to the**
20 **photograph of your product on Petitioner's Exhibit**
21 **15; do you see that?**

22 **A. Which photograph?**

23 **Q. The big photograph that's in the**
24 **center.**

25 **A. Okay.**

1 Q. Do you recognize that photograph?

2 A. **Not other than the fact that it's on**
3 **this brochure.**

4 Q. Do you recognize the machine depicted
5 in that photograph?

6 A. **These pictures were not taken in the**
7 **United States.**

8 Q. And directing your attention to the
9 picture of the machine -- I can see on my copy there
10 is a designation on the machine that says Pavercat;
11 do you see that?

12 A. **Yes.**

13 Q. Have you ever used the Pavercat mark
14 like that on a machine that was sold in the US?

15 A. **No.**

16 Q. And directing your attention to the
17 text underneath that photograph, do you see the text
18 "Pavercat" Universal Machine there?

19 A. **Yes.**

20 Q. Do you know what the text "universal
21 machine" is meant to signify?

22 A. **Same response as to the previous one;**
23 **no, I don't have any idea what is meant by that.**

24 Q. Do you know whether or not Pave Tech
25 distributed copies of Petitioner's Exhibit 15 to

1 customers or potential customers in the United
2 States?

3 **A. I would imagine that we did. I**
4 **couldn't tell you how many.**

5 Q. Is there any way to capture the
6 information as to who might have received
7 Petitioner's Exhibit 15 from your current records?

8 **A. No.**

9 **(Whereupon, Jones Deposition**
10 **Exhibit No. 16 was marked for**
11 **identification.)**

12 Q. Mr. Jones, I hand you a copy of the
13 photograph that has been marked as Petitioner's
14 Exhibit 16. Can you identify Petitioner's Exhibit
15 16?

16 **A. That's "Mr. Hollywood" driving the**
17 **four-wheel drive Pavercat.**

18 Q. Are you familiar with this photograph?

19 **A. Yes.**

20 Q. Did you take this photograph?

21 **A. That would have been a good trick. I**
22 **had it taken by one of my guys, yes.**

23 Q. Do you recall why you had it taken by
24 one of your guys?

25 **A. We were trying to show the versatility**

1 of the unit and its limitations.

2 Q. What function are you performing in
3 this photograph, if you can recall?

4 A. I'm scooping gravel to move it into
5 place on a site.

6 Q. Would it be fair to say, Mr. Jones,
7 that scooping gravel is one of the versatile uses to
8 which a customer or potential customer could put the
9 Pavercat to use?

10 A. Not efficiently.

11 Q. I'm sorry?

12 A. Not efficiently. It was one of the
13 things that it could do but not very well.

14 Q. Do you recall why you chose to depict
15 this use in this particular photograph?

16 A. Again, we try to be very up front and
17 honest with our customers as to the potential uses
18 and the limitations of the product itself. In this
19 case you are seeing the full extent of the lifting
20 capacity of its bucket in which case it in cannot
21 lift, it cannot drop, it cannot flip over. The fact
22 that there are no sides to the bucket and there is no
23 real scoop there limits the amount of material it can
24 carry, and also it makes a mess carrying it from one
25 spot to the next. But it is a function that you can

1 do. When you reach the point of ready to lay the
2 pavement down, typically you have moved the heavy,
3 equipment skid steers and such, off site. And this
4 machine can do some of those functions in a limited
5 basis.

6 Q. Did you provide this photograph to your
7 attorney to be used as a specimen of use for the
8 Pavercat trademark application?

9 A. I don't think so.

10 MS. INNIS: Can we take a short break?

11 (A recess was taken.)

12 Q. Mr. Jones, directing your attention
13 back to Petitioner's Exhibit 3, which we've
14 previously marked and identified as the PTO file
15 wrapper.

16 A. Yes.

17 Q. If you turn to page 6 of the faxed copy
18 of this file wrapper; do you see that?

19 A. (Reviewing.) Yes.

20 Q. Do you see that there is a photograph
21 there?

22 A. Yes.

23 Q. Does this document refresh your
24 recollection as to whether or not you provided the
25 photograph we were just discussing in Petitioner's

1 Exhibit 16 to your attorney for use in the trademark
2 application for use of Pavercat?

3 A. It obviously was supplied by me because
4 no one else could have done that.

5 (Whereupon, Jones Deposition
6 Exhibit No. 17 was marked for
7 identification.)

8 Q. Mr. Jones, I hand you a document which
9 has now been marked as Petitioner's Exhibit 17.
10 Please identify Petitioner's Exhibit 17, if you can.

11 A. (Reviewing.) It is a copy of one of
12 the early Pave Edge color brochures.

13 Q. What is the purpose of Petitioner's
14 Exhibit 17?

15 A. To sell people on the advantages of
16 using Pave Edge to restrain their paving.

17 Q. Would it be correct to say that it is
18 used as a promotional tool?

19 A. Yes.

20 Q. Were you involved in the creation of
21 Petitioner's Exhibit 17?

22 A. Yes.

23 Q. Were you ever involved in the creation
24 of a similar brochure for the Pavercat products that
25 were sold by Pave Tech?

1 **A. No.**

2 Q. Turning your attention to the second
3 page of Petitioner's Exhibit 17 there's some type of
4 machinery depicted in the picture in the lower
5 left-hand corner; do you see that?

6 **A. Yes.**

7 Q. Can you identify what that machinery
8 is?

9 **A. It's a Melroe Bobcat skid-steer loader.**

10 Q. Do you recall why you chose to put that
11 picture in this particular brochure?

12 **A. At that time and still today that was**
13 **the largest skid-steer loader manufactured by any**
14 **company, and we are trying to show a heavy**
15 **industrial-type load along the edge of the pavement**
16 **without the pavement shifting or moving.**

17 Q. Are you aware of whether or not
18 Caterpillar manufactures a similar type of skid-steer
19 loader?

20 **A. They manufacture a type of skid steer,**
21 **but no company made one as large. Bobcat today no**
22 **longer makes this unit either.**

23 Q. Can a Pave Edge product be used with a
24 Caterpillar skid-steer loader?

25 **A. You mean standing on the edge? The**

1 only thing this picture is depicting is a heavy load
2 along the perimeter of the pavers and the Pave Edge
3 is shown restraining the load from shifting. A
4 garbage truck would have worked just as well, but he
5 wouldn't have backed up on the load for us.

6 (Whereupon, Jones Deposition
7 Exhibit No. 18 was marked for
8 identification.)

9 Q. Mr. Jones, I'm handing you a document
10 which has now been marked as Petitioner's Exhibit 18.
11 Can you identify Petitioner's Exhibit 18?

12 A. (Reviewing.) It is volume 2, number 2
13 of a series of newsletters that we printed for a
14 number of years.

15 Q. Do you currently print such a
16 newsletter?

17 A. No, we do not.

18 Q. Do you recall when you stopped printing
19 such a newsletter?

20 A. I don't recall exactly. It would have
21 been 1991 or '92, I think.

22 Q. Directing your attention to the picture
23 on the front page of the newsletter; do you see that?

24 A. Yes.

25 Q. Can you identify that machine for me?

1 **A. That is a mechanical laying machine.**
2 **The clamp, the thing gripping the pavers, was made by**
3 **Probst and the machine was made by someone else.**

4 Q. Do you know who made that machine?

5 **A. No.**

6 Q. Do you know what that machine is called
7 without the Probst attachment?

8 **A. It is called a mechanical layer without**
9 **an attachment.**

10 Q. Directing your attention to page 6,
11 bates PT01150, you will see in the middle column the
12 paragraph, "Sincere thanks are extended to three
13 participating firms who loaned equipment to Pave Tech
14 to help make the seminar/demonstration a success;" do
15 you see that?

16 **A. Yes.**

17 Q. And then down a little farther it says
18 Melroe Bobcat Enterprises, Inc.; do you see that
19 language?

20 **A. Yes.**

21 Q. Do you recall what equipment was
22 provided by Melroe to help Pave Tech with its
23 demonstration?

24 **A. It's an 843 skid steer pictured on the**
25 **photograph surrounding that.**

1 Q. Directing your attention to the
2 photograph in the lower left-hand corner, there's a
3 machine depicted there that appears to be labeled
4 Case; do you see that?

5 A. There are two machines depicted. The
6 one labeled Case is a piece of compaction equipment,
7 and the one to the left of that is a Melroe Bobcat
8 skid steer.

9 Q. Do you know how it was used in
10 connection with Melroe Bobcat's paving demonstration?

11 A. It was used to move gravel, move and
12 grade aggregate gravel base.

13 Q. Would that have been a typical use?

14 A. For a skid steer?

15 Q. Yes.

16 A. Absolutely.

17 (Whereupon, Jones Deposition
18 Exhibit No. 19 was marked for
19 identification.)

20 Q. Mr. Jones, I hand you a document which
21 has now been marked as Petitioner's Exhibit 19. Can
22 you identify Petitioner's Exhibit 19 for me, please?

23 A. (Reviewing.) This was the first
24 brochure produced by my company to promote the fact
25 that we were selling Probst tools.

1 Q. Do you recall what year this particular
2 piece would have been produced?

3 A. We had made changes. For this
4 particular one there were some changes that were done
5 in probably the late '90s because we had made some
6 changes internally or some of these photographs --
7 the original one was done I'm going to say in '93,
8 '94 and we made some changes three or four years
9 later.

10 Q. Now, directing your attention to the
11 photographs on the cover of this exhibit, there's a
12 photograph in the lower left-hand corner of what
13 looks like an attachment to a machine; do you see
14 that?

15 A. Yes.

16 Q. Is that the Pavermax?

17 A. No.

18 Q. Can you identify that machine for me?

19 A. That is a Melroe Bobcat articulated
20 motor with a Probst clamp on pallet forks.

21 Q. Are you aware of any manufacturers who
22 offer a product competitive to this particular Melroe
23 product?

24 A. I think there's some. Melroe no longer
25 manufactures that articulated loader. There are

1 **companies that do; Bygoda, Swinger.**

2 Q. If a customer or a potential customer
3 wanted to perform that function today, are you aware
4 of what type of product they would use?

5 A. **It varies depending on the contractor**
6 **and the job situation and a whole number of issues.**
7 **Normally, that clamp is used with a forklift. It can**
8 **be used with a boom truck. It can be used on site**
9 **with a large enough skid steer or articulated loader.**
10 **The picture there is a common use of it.**

11 (Whereupon, Jones Deposition
12 Exhibit No. 20 was marked for
13 identification.)

14 Q. Mr. Jones, I hand you a document which
15 has now been marked Petitioner's Exhibit 20. Can you
16 identify Petitioner's Exhibit 20, please?

17 A. **(Reviewing.) It is an attempt to help**
18 **our smaller contractors with job costing and**
19 **organizing their job process, a costing and**
20 **estimating guide.**

21 Q. How would Pave Tech typically use this
22 document with a customer or potential customer?

23 A. **A lot of contractors and small**
24 **contractors, including myself when I started, didn't**
25 **really understand business the way you understand a**

1 craft or a skill but didn't understand the business
2 side of contractor. So there is a tendency to gloss
3 over that and blindly bid work which eventually puts
4 you out of business. My company was lucky to develop
5 products that could income me more than I could spend
6 for a while until I could income more than I could
7 spend. So this is our attempt to help those in the
8 industry learn to cost their jobs better so they
9 could turn a profit.

10 Q. Does Pave Tech use this as a
11 promotional tool for its own products in some manner?

12 A. Yes.

13 Q. How does it do so?

14 A. Well, as you can see you can get copies
15 of these printed things from us at cost, we sell them
16 at our cost, and if you photocopy it you get that
17 background logo that is almost imperceptible on an
18 original printed copy but it does come through bright
19 and cheery on the photocopy. The people trying to
20 implement this in their program, you know, we are
21 trying to help them do their job, make a profit, stay
22 in business.

23 Q. So this is a document that the customer
24 would use for their business internally?

25 A. Yes.

1 Q. Going back, Mr. Jones, to Petitioner's
2 Exhibit 19 for a minute and again directing your
3 attention to the attachment or clamp that is depicted
4 in the picture that you previously testified about;
5 do you see that?

6 A. Yes.

7 Q. Do you currently sell that Probst
8 attachment?

9 A. A version of it. A more recent version
10 of that.

11 Q. Could that more recent version of the
12 product that Pave Tech sells be used as an attachment
13 to any Caterpillar products?

14 A. If they can lift high enough and enough
15 weight.

16 Q. So that would include forklifts?

17 A. Definitely.

18 Q. Would that include a skid-steer loader?

19 A. Perhaps depending on the load
20 capability.

21 Q. Have any customers or potential
22 customers ever inquired as to whether any of the
23 Probst attachments that Pave Tech sells could be used
24 with a Caterpillar product?

25 A. Not specifically, no.

1 Q. Generally?

2 A. Yes.

3 Q. Do you recall who those customers were?

4 A. No.

5 Q. Do you recall what the attachments
6 were?

7 A. They would do with all of the lifting
8 devices that we have. The clamp device that you see
9 in that Exhibit 19 is something that could be used
10 either with a chain off of a bucket or through the
11 rotating pallet fork head that is on top of the
12 device or attachment so that anything with pallet
13 forks or anything that could dangle a chain could
14 operate the clamp.

15 Q. Do you know if any customer or
16 potential customer ever inquired whether one of the
17 Pavercat attachments could be used in conjunction
18 with a Caterpillar product?

19 A. Specifically with Caterpillar, no.

20 Q. Generally?

21 A. Generally, yes.

22 Q. Do you recall what that was?

23 A. Just in a vague sense that we said no.

24 Q. Do you recall who that customer was?

25 A. No.

1 **Exhibit No. 21 was marked for**
2 **identification.)**

3 Q. Mr. Jones, I hand you a document which
4 has now been marked as Petitioner's Exhibit 21. Can
5 you identify Petitioner's Exhibit 21, please?

6 A. **(Reviewing.) I believe, although I'm**
7 **not a hundred percent sure, that you asked for a copy**
8 **of a list of companies that were dealers of our**
9 **products. This, I believe, meets that.**

10 Q. Am I correct in understanding your
11 previous testimony that no Pavercat products were
12 actually distributed through any dealer of Pave Tech?

13 A. **I believe that to be true, yes.**

14 Q. What types of products are distributed
15 through the dealers that are identified on
16 Petitioner's Exhibit 21?

17 A. **Mostly they would consist of edging,**
18 **Pave Edge, our adhesives, chemical sealers, and acid**
19 **cleaners. In some cases they would probably consist**
20 **of smaller hand tools.**

21 Q. What about Paververmax?

22 A. **No.**

23 Q. Why is that?

24 A. **A large mechanized fairly complex item.**

25 Q. Aside from the Pavercat and Paververmax

1 product, does Pave Tech distribute any other
2 motorized vehicles?

3 **A. Yes.**

4 Q. Can you identify those for me, please?

5 **A. If we go to Exhibit 19 lower right-hand**
6 **corner you can see a large piece of equipment with a**
7 **mast and a tower on it which is an engine-driven**
8 **vacuum which lifts pieces of concrete and stone and**
9 **allows one person to lift a very heavy load with a**
10 **vacuum.**

11 Q. Do you use a trade name for that
12 machine?

13 **A. Probst uses Jumbo. We use Mammoth.**

14 Q. Any other products that are motorized
15 vehicles distributed by Pave Tech?

16 **A. If you just use the term motorized I**
17 **can answer that a little better, because they are not**
18 **vehicles as such. The other motorized equipment that**
19 **we would offer would be gas or diesel engine stuff**
20 **which would be compaction equipment.**

21 Q. What type of compaction equipment?

22 **A. We've changed vendors a couple of**
23 **times.**

24 Q. Can you identify the vendor that you
25 currently use?

1 **A. Our current vendor is a company called**
2 **Ulderink from Holland.**

3 Q. Could you spell that?

4 **A. U-l-d-e-r-i-n-k.**

5 Q. Do you use a trade name or trademarks
6 in connection with the products that you distribute
7 from this company?

8 **A. Paverpacker.**

9 Q. What is the function of the Paverpacker
10 product?

11 **A. To pack soils and aggregate bases.**

12 Q. Were you involved in the adoption of
13 that particular mark?

14 **A. Yes.**

15 Q. Would you agree that it is the
16 combination of the words "paver" and "packer"?

17 **A. Yes.**

18 Q. Why did you choose to use the term
19 Paverpacker for that particular product?

20 **A. Packer is kind of a slang term for**
21 **compaction equipment but yet gives an indication of**
22 **what it does, and paver, of course, being that it's**
23 **the term that we pretty much attach to anything.**

24 Q. Was the mark adopted at least in part
25 by its descriptive qualities?

1 **A. Yes.**

2 **Q. Is this a registered trademark?**

3 **A. No.**

4 **Q. Why did you or why did Pave Tech**
5 **determine not to register this particular mark?**

6 **A. It is not registered but I believe we**
7 **filed for registration.**

8 **MR. O'LOUGHLIN: There is a pending**
9 **registration. I don't recall the status of it.**

10 **Q. Why did you decide to seek registration**
11 **for this mark?**

12 **A. It goes to cost of promotion and**
13 **developing a trade name. When a small company like**
14 **ours invests or has to invest in promotion of a**
15 **particular product, we're not necessarily happy to**
16 **leave that promotion of that trade name available to**
17 **our competitors.**

18 **Q. Could you estimate the development cost**
19 **associated with Pave Tech's adoption of the Pavercat**
20 **mark?**

21 **A. No.**

22 **Q. Why not?**

23 **A. You're asking for costs?**

24 **Q. Yes.**

25 **A. We do not itemize to that degree.**

1 Q. Do you have some sense of a general
2 approximation of those costs?

3 A. **Sitting here right now, no.**

4 Q. Are there any documents available that
5 you are aware of that might refresh your recollection
6 of what those costs are?

7 A. **No.**

8 Q. Mr. Jones, do you believe that the use
9 of the mark Pavercat affected the salability of the
10 product in any manner?

11 A. **Other than being a neat name I don't**
12 **know. Rollmops was certainly not catchy.**

13 Q. Would it have any negative effect on
14 Pave Tech's business if Pave Tech decided to come
15 back to market with a product that performed the
16 functions of the Pavercat product but used a name
17 other than Pavercat to promote that product to
18 customers?

19 A. **It all goes back to putting time and**
20 **effort and money into developing an identity for**
21 **something. Could it be done with another name; I**
22 **would imagine so.**

23 **(Whereupon, Jones Deposition**
24 **Exhibit No. 22 was marked for**
25 **identification.)**

1 Q. Mr. Jones, I hand you a document which
2 has now been marked as Petitioner's Exhibit 22.

3 A. Yes.

4 Q. Exhibit 22 is actually a compilation of
5 a number of individual documents that look to me to
6 be invoices; is that correct?

7 A. (Reviewing.) Yes.

8 Q. Could you identify the invoices
9 contained within Petitioner's Exhibit 22?

10 A. It looks like each of these copies of
11 invoices relate to the sale of Pavercat or Pavercat
12 equipment to different Pave Tech customers.

13 Q. Bates number PT01739; do you see that
14 invoice?

15 A. Yes.

16 Q. Directing your attention to the invoice
17 date of 9/12/2000; do you see that?

18 A. Yes.

19 Q. Are you aware of any sales of the
20 Pavercat product prior to September 12, 2000?

21 A. From my company?

22 Q. Yes.

23 A. No.

24 Q. From another company?

25 A. Rollmops had been attempting to sell

1 **their product in the United States independent of**
2 **Probst.**

3 Q. But those products however were not
4 marketed under the brand name Pavercat; is that
5 correct?

6 A. **That would be correct.**

7 Q. And directing your attention to the
8 customer information on this invoice where it says
9 East Penn Pavement Company; do you see that?

10 A. **Yes.**

11 Q. Do you know how East Penn Pavement
12 Company came to be aware of the fact that the
13 Pavercat products were available for purchase through
14 Pave Tech?

15 A. **This is one of our very good contractor**
16 **customers who uses pretty much all of our equipment,**
17 **and he was there at the World of Concrete helping**
18 **with the mega demo, which was not at our request. He**
19 **just happened to show up and we asked if he would**
20 **pitch in and give a hand. Him and two of his guys**
21 **did and he was able to play with the Pavercat and**
22 **Pavermax and all the other toys.**

23 Q. Do you know how you filled the invoice
24 order?

25 A. **No.**

1 Q. Do you recall whether or not you had
2 the Pavercat product in stock?

3 A. At the time of the order I do not know.

4 Q. Do you recall when Pave Tech got
5 inventory, received inventory, of the Pavercat
6 products for sale?

7 A. No.

8 Q. Do you recall, Mr. Jones, whether or
9 not Pave Tech made any other sales of Pavercat
10 products in the year 2000?

11 A. I think these records are complete to
12 the best of my knowledge. I believe that was the
13 only one we sold in 2000.

14 Q. And then directing your attention to
15 the next invoice which is invoice number 103977,
16 bates number PT01740; do you see that?

17 A. Yes.

18 Q. And the invoice date is 2/15/2001?

19 A. Yes.

20 Q. Do you recall whether or not Pave Tech
21 made any sales between September of 2000 and February
22 of 2001?

23 A. I don't believe so. In reference to
24 Pavercat products?

25 Q. Correct.

1 **A. No.**

2 Q. Directing your attention to the item
3 number in these invoices, which is 51510001, is that
4 an internal item number?

5 **A. Yes.**

6 Q. Are you aware of how Imperial Stone
7 Paving, Inc. became aware that they could purchase a
8 Pavercat product through Pave Tech?

9 **A. They saw it on an East Penn Pavement**
10 **job.**

11 Q. How do you know that?

12 **A. Because they told us.**

13 Q. Did you have a prior relationship with
14 Imperial Stone Paving, Inc.?

15 **A. Not to my knowledge, but it's possible.**

16 Q. Do you know how they got to Pave Tech
17 from seeing one of these products out on the job?

18 **A. It could have been from one of our**
19 **stickers out on the machinery or the logo.**

20 Q. Directing your attention to bates
21 number 01743, invoice number 109490.

22 **A. Yes.**

23 Q. The invoice date of 11/22/2002; do you
24 see that?

25 **A. Yes.**

1 Q. To the best of your recollection, is
2 that the only purchase that was made of the Pave Tech
3 product in 2002?

4 A. Yes.

5 Q. Who is AGB Nursery, Inc.?

6 A. Other than a customer I don't know.

7 Q. Do you know how they came to be aware
8 of the fact that they could purchase a Pavercat
9 product from Pave Tech?

10 A. No.

11 Q. Has Pave Tech sold any Pavercat product
12 other than the attachment shown on the next page,
13 bates number 01744, since November of 2002?

14 A. Well, the invoice date was 5/13/2003.

15 Q. Wasn't that for an attachment?

16 A. Yes. So I believe that would have been
17 the last sale of Pavercat equipment.

18 Q. The last sale would have been November
19 22nd of 2002?

20 A. Well, that's the order date. They
21 didn't sign off on it until May of '03.

22 Q. Let's go through this invoice number
23 109490. Am I correct in understanding that this
24 invoice is for the Pavercat machine plus some
25 attachments to that machine that are also --

1 **A. Yes. I'm sorry. That was a back order**
2 **I was referring to.**

3 Q. That invoice number 109490 order
4 occurred in November of 2002, correct?

5 **A. Yes.**

6 Q. And then subsequent to November of 2002
7 are you aware of any purchasers of the Pavercat
8 machine in contrast to an attachment?

9 **A. No.**

10 Q. Are you aware, Mr. Jones, of typically
11 what the product life, the useful product life, would
12 be of the Pavercat machine sold by Pave Tech?

13 **A. It would be extremely dependant upon**
14 **the maintenance of the company that purchased it.**

15 Q. Assuming that the purchaser maintained
16 the product in accordance with the manufacturer's
17 policies and recommendations, do you have any
18 awareness of what the product's useful life might be?

19 **A. It would be a pure guess. It would be**
20 **in excess of ten years I would think.**

21 Q. Do you know what the warranty period is
22 for the structural issues that may be associated with
23 the Pavercat machine?

24 **A. We have an internal policy at Pave**
25 **Tech, which we don't necessarily print out, but it's**

1 if we find that there was a structural defect based
2 on design or workmanship regardless of the age of the
3 machine we will somehow help the customer get it
4 fixed and reimbursed for his efforts for the cost of
5 the repairs. The components for the engine is
6 entirely based on whatever the engine company's
7 warranty would be.

8 Q. Did Pave Tech provide a written
9 warranty to any of the customers identified in
10 Petitioner's Exhibit 22?

11 A. I don't believe so, no.

12 Q. How would these customers be aware of
13 Pave Tech's warranty policies?

14 A. The vast majority of the companies that
15 we deal with are familiar with our history and
16 reputation as a company, and basically we tell them
17 that if there is a problem with the product based on
18 poor materials we will take care of it and that is
19 good enough for them. I know sometimes in the past
20 larger corporations -- not for Pavercat but other
21 products -- have requested warranty documentation,
22 and I know that we have printed out warranty
23 statements before but not specific to Pavercat.

24 Q. Are you aware of whether or not any of
25 the customers identified in Petitioner's Exhibit 22

1 have re-sold the Pavercat product purchased from Pave
2 Tech?

3 **A. I would say I'm pretty sure the answer**
4 **is no, they have not.**

5 Q. How are you pretty sure of that answer?

6 **A. Remember we are in regular contact with**
7 **East Penn so if they sold one we probably would have**
8 **been notified. The other companies typically -- I**
9 **would think they were happy with the machines so I**
10 **would think that unless they were going out of**
11 **business they wouldn't have any reason to sell them.**

12 Q. Am I understanding your testimony
13 correctly that other than the sales of the invoices
14 in Petitioner's Exhibit 22 that Pave Tech has not
15 sold any other Pavercat machines or attachments to
16 any customers?

17 **A. That would be correct.**
18 **(Whereupon, Jones Deposition**
19 **Exhibit No. 23 was marked for**
20 **identification.)**

21 Q. How did the sales of Pavercat products
22 compare to sales of other motorized products offered
23 by Pave Tech such as Pavermax?

24 **A. I haven't done my relationship studies.**

25 Q. Do you have some general sense?

1 A. Sales were not great on Pavercat
2 partially because of, I believe, a pricing problem.
3 When you get one more step into distribution, that
4 starts to raise the price quite a bit. So we felt
5 the product was very highly priced and there was
6 market resistance to that price. It was our hopes
7 that Probst would eventually take on manufacturing
8 itself and eliminate that one layer of distribution.

9 Q. Would it be fair to say that sales of
10 the Pavercat products have been minimal in the sense
11 of the overall sales of Pave Tech products?

12 A. Yes.

13 Q. Mr. Jones, I hand you a document which
14 has now been marked as Exhibit 23. Can you identify
15 Petitioner's Exhibit 23?

16 A. (Reviewing.) Part of your document
17 request was asking for advertising expenditures
18 specifically, I think, detailing what we did to
19 promote Pavercat. We don't have detail on that and
20 we could only provide you with our annual expenses on
21 advertising.

22 Q. Am I correct in understanding your
23 testimony that the figures depicted in Exhibit 23
24 would be annual figures for Pave Tech's entire
25 advertising and promotional expenses?

1 **A. This says advertising so I'm going to**
2 **say -- I know that would not be the full figure for**
3 **advertising and promotion. Promotion would be more**
4 **than that, but it is sometimes difficult to break up**
5 **the price of promotion and travel and so on. So I**
6 **would say now, but without a hundred percent**
7 **conviction, that these are advertising costs that are**
8 **probably based on literature and magazine type**
9 **advertising.**

10 Q. Has Pave Tech done any magazine type
11 advertising in relation to the Pavercat products?

12 **A. Not to my recollection.**

13 Q. And aside from the 2001 and 2002 price
14 lists that you previously testified about are you
15 aware of any other printed literature that Pave Tech
16 created in connection with the promotion or
17 advertising of the Pavercat products?

18 **A. No.**

19 Q. Would it be fair to say, Mr. Jones,
20 that a minimal amount of the expenditures shown on
21 Petitioner's Exhibit 23 could be fairly allocated to
22 expenses related to the advertising of the Pavercat
23 products?

24 **A. There was a disproportionate amount of**
25 **promotion that goes to mechanical equipment if the**

1 cost of moving that equipment to a customer's
2 location for demonstration purposes means we had to
3 typically bring large equipment with a truck and
4 trailer, and that was the case with the vacuum,
5 Pavermax, and Pavercat. So unfortunately the costs
6 were relatively high.

7 Q. Do you have any sense of what portion
8 of the figures shown in Petitioner's Exhibit 23 could
9 be fairly allocated to expenses allocated to the
10 Pavercat mark?

11 A. It would be difficult just from sitting
12 here thinking about it. But just to give you an
13 example, to move one truck and one van or one trailer
14 with a Pavercat in it to the east coast is a two-day
15 trip consuming probably \$300 worth of fuel a day plus
16 a driver plus the wear and tear and depreciation on
17 the vehicle and the trailer. So the problem being it
18 was a disproportionate out-of-pocket expense.

19 Q. Is there anything in Exhibit 23 that
20 relates to the promotional cost for the Pavercat in
21 the year 2003?

22 A. We didn't do anything in 2003.

23 Q. What about in 2002; do you recall what,
24 if any, of those types of promotions you did in
25 connection with the Pavercat mark?

1 **A.** The majority of our promotions of
2 Pavercat were in 2000 and 2001. By 2002 we were
3 already looking at winding down our promotions of the
4 product based on the other issues I already brought
5 up. I can tell you the World of Concrete mega demo
6 cost for us to bring the equipment and the people for
7 that, just our out-of-pocket was close to sixty or
8 \$70,000 to do that mega demo of which the Pavercat
9 was probably -- if you look at the cost of the
10 equipment versus that it was probably ten percent of
11 our demo.

12 MS. INNIS: Let's take a short break.

13 (A brief recess was taken.)

14 **Q.** Mr. Jones, directing your attention
15 back to Petitioner's Exhibit 22 to invoice number
16 109490, the reference to the AGB Nursery.

17 **A.** **Yes.**

18 **Q.** Are you aware of whether or not AGB
19 Nursery is in the paving business?

20 **A.** **I would assume them to be.**

21 **Q.** Why would you assume so?

22 **A.** **In many markets nurseries have --**
23 **especially in the New Jersey market which is a little**
24 **bit of a strange thing -- nurseries tend to get into**
25 **natural stone and they have a broader range of**

1 **products than you will find in most nurseries.**

2 Q. Is that because they do a broader range
3 of landscaping?

4 A. They try to encompass more than what we
5 consider normal landscaping. They may even be brick
6 distributors which is kind of a rare thing. But many
7 of the nurseries also have in-house installation
8 crews which is what I would assume this was to be
9 used for.

10 Q. Could you describe an in-house
11 installation crew?

12 A. Well, we try to define the involvement
13 in our industry as being a manufacturer,
14 dealer/distributor, consumer, or landscaper. AGB
15 nursery to purchase something like this is probably a
16 dealer/distributor of paving products but also at the
17 same time they may have their own company
18 installation crews. A number of companies around the
19 country might do that.

20 Q. So some nurseries might also be
21 contractors?

22 A. Yes.

23 Q. And these types of contractors might do
24 other landscaping work in addition to paving,
25 correct?

1 **A.** Our experience has been that normally
2 if they are doing paving they will have a paving or a
3 hardscape crew. And for soft landscape the knowledge
4 necessary to do the different disciplines is
5 completely different. Not that it doesn't happen,
6 it's just rare that they would mix the two.

7 **Q.** You previously testified that most of
8 your customers know Pave Tech or the reputation of
9 Pave Tech; is that correct?

10 **A.** **Yes.**

11 **Q.** And I believe that you also testified
12 that Pave Tech attended trade shows such as the World
13 of Concrete show to attract a broader range of
14 customers; is that correct?

15 **A.** **No, that's not what I said.**

16 **Q.** Why did Pave Tech attend the World of
17 Concrete show?

18 **A.** We were looking for our customer base
19 and what shows they would attend on a national basis.
20 We know that our customers attend local
21 landscape-type shows, we just we had been looking for
22 the venue that they go to. What we have found is
23 that our larger contractor customers go to World of
24 Concrete.

25 **Q.** Who might those customers be?

1 **A. Paving contractors for landscaping**
2 **materials.**

3 Q. Can you identify some of those
4 customers by name?

5 **A. East Penn would be one. LPS Pavement**
6 **would be another.**

7 Q. Any nurseries?

8 **A. None that come to mind.**

9 Q. Mr. Jones, is it likely that some of
10 the attendees at these larger trade shows such as the
11 World of Concrete may not be familiar with Pave Tech
12 or Pave Tech products?

13 **A. Absolutely.**

14 Q. Is it probable?

15 **A. If they're not in our industry it's**
16 **probable.**

17 Q. Is it possible that some of these
18 attendees upon seeing the Pavercat demonstration may
19 mistakenly believe the Pavercat product is a
20 Caterpillar product?

21 **A. No.**

22 Q. Why not?

23 **A. Because the Pavercat product in all of**
24 **its glory was always promoted as a Pave Tech and a**
25 **Probst product and was always demonstrated along with**

1 our other products so it wasn't like it was a
2 singular product onto itself sitting out by itself.
3 It was always displayed about with all of the other
4 Pave Tech and Probst products.

5 Q. Is it possible that other people at the
6 show may have thought that Pave Tech was a dealer of
7 Caterpillar products?

8 A. No.

9 Q. Why not?

10 A. Because we are not shy about our logo,
11 it is quite large and prominently displayed so it can
12 clearly be seen. We are quite proud of it. There is
13 no way that you would mistake Pave Tech for
14 Caterpillar and vice versa.

15 Q. Wasn't the Bobcat product used during
16 the demonstration also?

17 A. It was used as a necessary item and it
18 was fairly obviously marked Ingersoll-Rand Bobcat.
19 They're not shy about their trademark either.

20 Q. How far away were the stands from the
21 product demonstration at the World of Concrete show?

22 A. There was probably ten feet from the
23 barrier to the first part of the stands and then we
24 probably started setting up different areas with the
25 bigger machinery including the Pavercat and Pavermax.

1 Q. Am I correct that the Pave Tech name
2 does not appear on the Pavercat product itself?

3 A. Well, that's not true.

4 Q. How does Pave Tech appear on the
5 product and where?

6 A. In Exhibit 16 you can see on the back
7 of the unit that funny-shaped design logo. That's
8 one of our earlier logos for combining the Pave Tech
9 Probst line. We normally only use the singular
10 Probst when Pave Tech is not somewhere else involved
11 in the advertising. Otherwise, we combine the words
12 Pave Tech and Probst in our standard logo to get our
13 identity.

14 Q. Would it be fair to say that the
15 Pavercat mark appears more prominently on the
16 Pavercat machine than the Pave Tech name?

17 A. There wasn't enough room.

18 Q. Is that --

19 A. The answer would be yes. We did like
20 that little cat head.

21 Q. Mr. Jones, to the best of your
22 recollection, did Pave Tech exhibit the Pavercat
23 machine or products at any trade shows in 2003?

24 A. No, we did not.

25 Q. Are you aware of whether or not Pave

1 Tech exhibited or promoted the Pavercat products at
2 any trade shows in 2002?

3 A. I don't remember. I would assume --
4 I'm guessing -- you said in 2000?

5 Q. 2002.

6 A. In 2002 I believe we were still
7 bringing the machine with us to demonstrations, but I
8 don't believe that we gave it booth space.

9 Q. Do you recall specifically where those
10 demonstrations were?

11 A. No. If you go through a list there
12 from Bob Cramer it would refresh my memory of where
13 we went that year.

14 Q. Where would Bob Cramer have that
15 information?

16 A. In his head. Maybe not.

17 MR. O'LOUGHLIN: Counsel, I can tell
18 you I inquired Mr. Cramer about that and his
19 information was pretty sketchy before 2003. I think
20 the 2002 listing was included in the responses.

21 (Whereupon, Jones Deposition
22 Exhibit No. 24 was marked for
23 identification.)

24 Q. Mr. Jones, I hand you a document which
25 has now been marked as Petitioner's Exhibit 24. Can

1 you identify Petitioner's Exhibit 24?

2 **A. (Reviewing.) This looks like the**
3 **listing or the promotion piece for the Brick Industry**
4 **Association Show for --**

5 Q. Go ahead. I'm sorry.

6 **A. For Phoenix, Arizona.**

7 Q. What is the Brick Industry Show?

8 **A. A show that represents the clay brick**
9 **industry for both wall brick and paving brick, clay**
10 **paving brick.**

11 Q. Am I correct in understanding this
12 document that Pave Tech distributed products at the
13 Brick Industry Show?

14 **A. Yes.**

15 Q. Do you know whether or not the Pavercat
16 product was exhibited?

17 **A. This is typically a small show and the**
18 **Pavercat product was not there.**

19 Q. Do you know whether or not the Pavercat
20 product was exhibited at the 2002 Masonry Expo show?

21 **A. What city?**

22 Q. In Kansas City, Mississippi.

23 **A. No, it was not.**

24 Q. Are you aware of whether the Pavercat
25 product was exhibited at any masonry expo in 2002?

1 **A. No, it was not.**

2 Q. How about 2001?

3 **A. What was the location?**

4 Q. San Antonio, Texas.

5 **A. San Antonio -- all I can remember is**
6 **howl at the moon -- I don't believe so.**

7 Q. Was the Pavercat product exhibited at
8 the 2002 World of Concrete trade show?

9 **A. In Las Vegas or was that New Orleans?**

10 Q. I'm not sure which city it was in.

11 MS. INNIS: Mark this as an exhibit.

12 (Whereupon, Jones Deposition
13 Exhibit No. 25 was marked for
14 identification.)

15 Q. Mr. Jones, I hand you a document which
16 has now been marked as Petitioner's Exhibit 25. Can
17 you identify Petitioner's Exhibit 25?

18 **A. (Reviewing.) Looks like copies from**
19 **our file for that trade show World of Concrete.**

20 Q. Directing your attention to bates
21 number 00773.

22 **A. Yes.**

23 Q. About three-fourths of the way down the
24 page under the heading Products of Interest, do you
25 see that there is a designation that says Pavercat?

1 **Sopkowiak, my sales manager, but his printing isn't**
2 **usually that clean. Those are the only two it could**
3 **have been.**

4 Q. Do you recall, Mr. Jones, any trade
5 shows in the year 2002 in which Pave Tech exhibited
6 the Pavercat product?

7 A. **Green Industry Expo we might have**
8 **exhibited that, but I don't know if I was there. If**
9 **you give me the location, I can tell you if I was**
10 **present at that show or not.**

11 MS. INNIS: Mark that, please.

12 (Whereupon, Jones Deposition
13 Exhibit No. 26 was marked for
14 identification.)

15 Q. Mr. Jones, I am handing you a document
16 that has now been marked Petitioner's Exhibit 26.
17 Can you identify Petitioner's Exhibit 26?

18 A. **(Reviewing.) It looks like a printout**
19 **of the file that we have on that year's expo, Green**
20 **Industry Expo.**

21 Q. And directing your attention to 02708.

22 A. **Yes.**

23 Q. Do you see the crossed out references
24 to Pavercat at about the middle of the page?

25 A. **Yes.**

1 A. Bob usually handles the equipment end
2 of things. Very rarely do they cross. Dale would
3 handle the architectural customer things and Bob
4 would handle the equipment, usually arrange for
5 getting it there and setting it up. Dale would be
6 trying to bring the rest of the stuff there shipped
7 off to the show or arranging for one of those lead
8 printout sheets to be done at the different shows.

9 Q. What is the Green Industry Expo?

10 A. A combination of three associations in
11 landscaping and groundskeeping that come together as
12 three associations to provide meetings for their
13 associations and to provide a trade show for their
14 attendees.

15 Q. Does Pave Tech typically attend the
16 Green Industry Expo?

17 A. Yes.

18 Q. Do you know whether or not Caterpillar
19 typically attends the Green Industry Expo?

20 A. I don't know if they do with their skid
21 steer equipment or not. I know in the past they had
22 not.

23 Q. Directing your attention to bates
24 02770 -- first of all, did you attend the Green
25 Industry Expo in 2002?

1 **A. No.**

2 **Q. Do you know who from Pave Tech attended**
3 **the expo?**

4 **A. It would be Glenn Wrobleski, Bob**
5 **Cramer, and I do not know who else unless we have the**
6 **sheet. You wanted me to go to 02770?**

7 **Q. Yes, to the exhibit list there.**

8 **A. Okay.**

9 **Q. Do you see a listing for Caterpillar**
10 **there?**

11 **A. Yes.**

12 **Q. Do you have an opinion as to why**
13 **Caterpillar may have been an exhibitor at the Green**
14 **Industry Expo?**

15 **A. Caterpillar has been changing the focus**
16 **of their product line to deal with smaller equipment**
17 **for the last -- I can't say for how many years since**
18 **it hasn't been of great interest to me -- but with**
19 **the smaller skid-steer loaders and mini excavators**
20 **where they never used to exist.**

21 **Q. When did you become aware of**
22 **Caterpillar's actions in this regard?**

23 **A. I think their first entrance was they**
24 **kept downsizing their excavators because they kept**
25 **losing business to the mini excavators in the market**

1 **and then they started their skid steer maybe five,**
2 **six years, maybe longer.**

3 Q. Was it prior to the time that you
4 registered the Pavercat mark as a Pave Tech product?

5 A. **I don't know.**

6 Q. How did you become aware of
7 Caterpillar's focus on these types of products?

8 A. **Well, those millions and millions of**
9 **dollars of promotion that they blow every year trying**
10 **break into new markets is usually quite evident.**

11 Q. Did Pave Tech attend the 2002 Green
12 Industry Expo show?

13 A. **Yes.**

14 Q. Are you aware of whether Caterpillar
15 attended that show?

16 A. **I was not there.**

17 Q. Mr. Jones, are you aware of or can you
18 identify which trade shows Pave Tech exhibited the
19 Pavercat product at in the year 2001?

20 A. **Again, the only way I can do that is if**
21 **you refresh my memory on the location.**

22 Q. Did you attend the Landscape Ontario
23 trade show in 2001?

24 A. **Our company did if that was --**

25 Q. I believe that was in Toronto, Canada.

1 **A.** Yes, it is always in the same location.
2 We went back up there after a number of years of not
3 going up there because Canadians are infamously cheap
4 and they were not buying products from us. So it
5 might have been 2001 that we went up there in a large
6 way and brought every product known to us up there at
7 that time.

8 **Q.** Did you bring the Pavercat product?

9 **A.** If that was 2001 we would have had the
10 Pavercat product with.

11 **Q.** What is the Landscape Ontario trade
12 show?

13 **A.** It is an annual landscaping show with a
14 hardscape or paving and retaining wall focus to it.
15 Canadians are much more focused on those products
16 than we are down here in the US, so they focus on the
17 paving and retaining wall contractors.

18 **Q.** Are other types of landscaping goods
19 and equipment exhibited there, also?

20 **A.** Yes.

21 **Q.** Can you give me some types of examples
22 of those?

23 **A.** Trees, sod, mulch, lawn mowers,
24 snowblowers.

25 **Q.** Are you aware of whether or not

1 Caterpillar uses the "cat" mark on lawn mowers?

2 **A. I don't know.**

3 **(Whereupon, Jones Deposition**
4 **Exhibit No. 27 was marked for**
5 **identification.)**

6 Q. Mr. Jones, I'm handing you what has now
7 been marked as Petitioner's Exhibit 27. Can you
8 identify Petitioner's Exhibit 27?

9 **A. (Reviewing.) Yes.**

10 Q. What is this document?

11 **A. It is their file on the Landscape**
12 **Ontario trade show. And, yes, that was the year that**
13 **we shipped up an entire semi-truck load of equipment,**
14 **and listed on there is the Pavercat.**

15 Q. If you turn to the third page of this
16 document where there is a reference to Pavercat; do
17 you see that?

18 **A. Yes.**

19 Q. And then in italics next to Pavercat it
20 says Italy?

21 **A. Yes.**

22 Q. What is that reference to Italy
23 referring to?

24 **A. To the engine serial number.**

25 Q. Turning to the previous page which

1 appears to be a customs and transportation order
2 form; do you see that?

3 **A. Yes.**

4 Q. Do you recognize the handwriting on
5 that page?

6 **A. That would be Bob Cramer.**

7 Q. Does this document refresh your
8 recollection as to whether or not you personally
9 attended this show in 2001?

10 **A. I did attend this show.**

11 Q. Do you recall whether or not any
12 attendees at the Landscape Ontario trade show made
13 any inquiries regarding the Pavercat product?

14 **A. I'm sure they did, but I can't recall**
15 **any specifics.**

16 Q. Have you sold any Pavercat products in
17 Canada?

18 **A. No. Remember they don't buy anything.**

19 Q. Mr. Jones, do you recall whether or not
20 Pave Tech exhibited the Pavercat product at the 2001
21 Green Industry show?

22 **A. Where?**

23 Q. In Tampa, Florida.

24 **A. No, it did not.**

25 Q. Do you recall whether or not Pave Tech

1 exhibited the Pavercat product at the 2000 Green
2 Industry trade show which I think may also have been
3 in Tampa, Florida?

4 **A. Is there confusion here? They never**
5 **have it twice in the same place.**

6 Q. Excuse me. The 2000 show was in
7 Indianapolis, Indiana.

8 **A. I don't recall. I don't believe I went**
9 **to that show.**

10 Q. Do you recall whether or not Mr. Cramer
11 attended the show in Indianapolis?

12 **A. He would have attended the show. That**
13 **was in the fall of 2000, right; November?**

14 Q. Correct, November.

15 **A. He might have. Does it show the booth**
16 **size or give a list of equipment?**

17 MS. INNIS: Mark this, please.

18 (Whereupon, Jones Deposition
19 Exhibit No. 28 was marked for
20 identification.)

21 Q. Mr. Jones, I am handing you a document
22 which has been marked Petitioner's Exhibit 28, and
23 I'm directing your attention to bates 02549 within
24 Petitioner's Exhibit 28.

25 **A. (Reviewing.) Tampa.**

1 Q. If you turn to 02549 it references the
2 Green Industry Expo in Indianapolis.

3 A. Oh, I was looking at the 2001
4 information and the promotion sheet for 2001.

5 Q. Does that document refresh your
6 recollection as to whether or not the Pavercat
7 product was exhibited at the Green Industries Expo in
8 2000?

9 A. No, because none of the information
10 listed here pertains to the actual show except for --
11 just a moment. I'm going to say I don't know.

12 Q. Mr. Jones, did you attend the 2001
13 World of Concrete trade show?

14 A. What city? I'm sorry. They all blur
15 together.

16 Q. Las Vegas.

17 A. Where it will be for the next ten years
18 after this year. Yes, I did.

19 Q. Do you recall whether or not the
20 Pavercat product was exhibited at that trade show?

21 A. I don't recall.

22 Q. Would it be fair to say that at least
23 some of Pave Tech's products were exhibited at the
24 World of Concrete 2001 trade show?

25 A. Absolutely.

1 Q. Are you aware of whether or not
2 Caterpillar attended the World of Concrete trade show
3 in 2001?

4 A. Sure they did.
5 (Whereupon, Jones Deposition
6 Exhibit No. 29 was marked for
7 identification.)

8 Q. Mr. Jones, I hand you a document which
9 has now been marked as Petitioner's Exhibit 29. Can
10 you identify Petitioner's Exhibit 29?

11 A. It looks like a copy of what was left
12 on the file for that World of Concrete trade show.

13 Q. Well, there's some handwriting on the
14 very first page of Exhibit 29; do you recognize that
15 handwriting?

16 A. This? (Indicating.)

17 Q. Yes.

18 A. It would have been Bob Cramer because
19 he's the one who copied these files for you.

20 Q. Am I correct in understanding your
21 previous testimony that it is the 2000 World of
22 Concrete trade show where Pave Tech first exhibited
23 the Pavercat product?

24 A. Yes.

25 Q. Were you generally aware that

1 Caterpillar products were likely to be exhibited at
2 the 2000 World of Concrete trade show also?

3 **A. If asked at the time I would have said**
4 **yes.**

5 Q. Mr. Jones, did you attend the 2000
6 Masonry Expo trade show?

7 **A. And the city was?**

8 Q. In Las Vegas, Nevada.

9 **A. Yes.**

10 Q. Was the Pavercat product exhibited at
11 this trade show?

12 **A. No.**

13 Q. Do you recall what products of Pave
14 Tech were exhibited at this trade show?

15 **A. I believe that's the year -- that was**
16 **2000 you said?**

17 Q. Correct.

18 **A. To be sure I guess I would like to see**
19 **the file and make sure of the booth size.**

20 Q. Why is it that you are sure the
21 Pavercat product was not exhibited here? The date?

22 **A. Not the date but the booth size and we**
23 **were reducing our involvement in the Masonry Expo.**

24 Q. Why was that?

25 **A. The volume, the lack of attendees, the**

1 poor service from the association, and no
2 contractors.

3 (Whereupon, Jones Deposition
4 Exhibit No. 30 was marked for
5 identification.)

6 Q. Mr. Jones, I'm handing you a document
7 which has now been marked has Petitioner's Exhibit
8 30. Can you identify Petitioner's Exhibit 30?

9 A. (Reviewing.) It is what's from our
10 file on that show. We show a 20-by-20 space and I'm
11 going to say we probably did have the Pavercat at
12 that show.

13 Q. Can you describe who the target market
14 is for the Masonry Expo show?

15 A. The Masonry Expo -- and it's gone
16 through some revisions and now is part of a different
17 show -- targets masonry product producers, concrete
18 block, or concrete paver producers. My main industry
19 affiliation is with the Interlocking Concrete
20 Pavement Institute which currently meets in
21 conjunction when this show has its meetings. The
22 problem we have is that my customers are both
23 manufacturers of concrete products and contractors
24 who install them. So we try to make it go at a
25 Masonry Expo but there is not enough contractors to

1 **justify it and we couldn't change the programming**
2 **enough to incite them to come. So I think Masonry**
3 **Expo 2000 was the last time we had a booth of any**
4 **size bigger than that 20-by-20.**

5 Q. Do you recall, Mr. Jones, whether or
6 not Caterpillar was an exhibitor of the 2000 Masonry
7 Expo show where you exhibited the Pavercat?

8 A. **I would be somewhat surprised if they**
9 **were.**

10 Q. Why is that?

11 A. **Block companies typically don't use --**
12 **well, maybe their lift trucks. I wouldn't expect**
13 **their construction products to be there.**

14 Q. Directing your attention to bates stamp
15 01469, to the second column in that page, there is a
16 reference to Caterpillar, Inc.; do you see that?

17 A. **There you guys are again. It's like a**
18 **bad penny. Like I said, as you well know Caterpillar**
19 **has many divisions and I can't say how big they are**
20 **at one particular show or what products are showing.**

21 Q. Mr. Jones, wouldn't it be fair to say
22 that the products of Caterpillar were exhibited at at
23 least some of the same trade shows in which Pave Tech
24 exhibited the Pavercat products?

25 A. **Yes.**

1 **(Whereupon, Jones Deposition**
2 **Exhibit No. 31 was marked for**
3 **identification.)**

4 Q. Mr. Jones, I hand you a document which
5 has now been marked as Petitioner's Exhibit 31. Can
6 you identify Petitioner's Exhibit 31?

7 A. **It looks like a copy of our file on the**
8 **American Society of Landscape Architect trade show in**
9 **Saint Louis, Missouri.**

10 Q. Did Pave Tech attend the 2000 ASLA
11 trade show in the year 2000 in Saint Louis, Missouri?

12 A. **Yes.**

13 Q. Did Pave Tech typically attend the ASLA
14 trade show?

15 A. **Yes.**

16 Q. Are you aware of whether Pave Tech
17 exhibited the Pavercat at the ASLA 2000 trade show?

18 A. **At the American Society of Landscape**
19 **Architects the only products we promote are product**
20 **specifiers which would not be tools; it would be**
21 **edging chemicals, adhesives, etcetera.**

22 MS. INNIS: Let's take a short break.

23 (A brief recess was taken.)

24 (Whereupon, Jones Deposition

25 Exhibit No. 32 was marked for

1 identification.)

2 Q. Mr. Jones, I am going to show you a
3 copy of a CD which has been marked as Petitioner's
4 Exhibit 32 and ask you if you can identify
5 Petitioner's Exhibit 32 for the record.

6 A. Okay.

7 (The CD was viewed off the record.)

8 Q. Mr. Jones, after reviewing a portion of
9 the CD that has been marked as Petitioner's Exhibit
10 32. Can you identify Petitioner's Exhibit 32?

11 A. It looks like it's a copy of the
12 current, what we call our tool video on CD that we
13 distribute.

14 Q. Is this the CD that was the subject of
15 your testimony earlier today?

16 A. Well, we talked about a number of CDs,
17 but that's the tool video CD that contains
18 information regarding Pavercat.

19 Q. How is that CD used?

20 A. To provide information on what we sell
21 and tools.

22 Q. Would you agree that this CD depicts
23 one of the functions of the Pavercat product's
24 capabilities?

25 A. Yes, at least one.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

75924827

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)	
)	
Petitioner,)	Cancellation No. 92041776
)	
v.)	
)	
PAVE TECH, INC.,)	
)	
Registrant.)	

TTAB

**PETITIONER'S NOTICE OF RELIANCE
ON EXCERPTS FROM DEPOSITION OF ROBERT CRAMER**

In accordance with 37 CFR § 2.120(j), Petitioner hereby offers into evidence the following excerpts from the deposition of Robert Cramer, an employee of the Respondent who had been designated by Respondent as its Rule 30(b)(6) witness for Respondent's involvement in trade shows:

<u>PAGE</u>	<u>LINE</u>	<u>TO</u>	<u>PAGE</u>	<u>LINE</u>
3	9	to	3	11
5	12	to	5	20
6	10	to	7	2
8	4	to	11	2
11	25	to	13	4
13	18	to	14	1
16	14	to	17	14
17	21	to	18	5
18	13	to	19	9



Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 4, 2005.

Michelle D. [Signature]

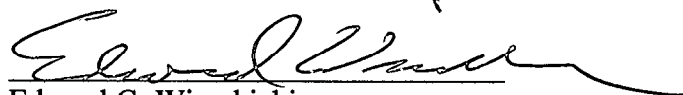
<u>PAGE</u>	<u>LINE</u>	<u>TO</u>	<u>PAGE</u>	<u>LINE</u>
41	21	to	42	11
43	6	to	43	12
44	5	to	44	23
46	22	to	47	23
48	5	to	48	18
48	22	to	49	6

Date: August 4, 2005

Respectfully submitted,

LOEB & LOEB LLP

By:



Edward G. Wierzbicki

Mary E. Innis

Nerissa Coyle McGinn

321 North Clark Street

Suite 2300

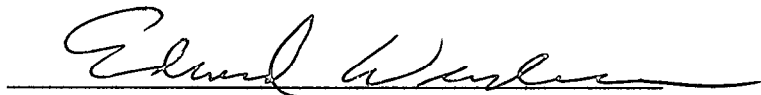
Chicago, Illinois 60610

Telephone: (312) 464-3100

Facsimile: (312) 464-3111

CERTIFICATE OF SERVICE

I, Edward G. Wierzbicki, hereby certify that I caused a copy of the foregoing
**PETITIONER'S NOTICE OF RELIANCE ON EXCERPTS FROM DEPOSITION OF
ROBERT CRAMER** to Michael J. O'Loughlin, Esq., Michael J. O'Loughlin & Associates,
P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis, Minnesota 55415
(without attachments) and Rebecca Jo Bishop, Altera Law Group LLC, 6500 City West
Parkway, Suite 100, Minneapolis, MN 55344, via first class mail, postage prepaid this 4th day of
August, 2005.



In the United States Patent and Trademark Office
Before the Trademark Trial and Appeal Board

CATERPILLAR, INC.,

Petitioner,

vs.

PAVE TECH, INC.,

Registrant.

ORIGINAL

The 30(b)6 Deposition of ROBERT CRAMER,
taken pursuant to Notice of Taking Deposition, taken
before Ann Marie Holland, a Notary Public in and for the
County of Washington, State of Minnesota, taken on the 24th
day of February, 2004, at the Offices of Lindquist & Vennum,
4200 IDS Center, Minneapolis, Minnesota, commencing at
approximately 10:50 a.m.

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ROBERT CRAMER,
the Witness in the above-entitled
matter after having been first duly
sworn deposes and says as follows:

EXAMINATION

BY MS. COYLE MCGINN:

Q. Could you please state your name for the
record?

A. Robert Lee Cramer.

Q. Have you ever been deposed before?

A. (Indicating.)

Q. I am just going to go through some basic rules
for a deposition.

A. Okay.

Q. Just so you know what is going on and know how
everything works.

What is going to happen is I'm just going to
ask you questions and you are going to respond. The Court
Reporter is going to have to take down all of your answers.

A. Okay.

Q. So you have to answer orally to all of the
questions.

A. Okay.

1 deposition?

2 A. Well, before the meeting started Michael gave
3 me an idea of what a deposition involved and that sort of
4 thing.

5 Q. Did you review any documents in preparation for
6 the deposition?

7 A. No. I was out of town until last evening.

8 Q. I am going to show you a document that was
9 previously marked as Exhibit 1. Do you recognize this
10 document?

11 A. I do not.

12 MS. COYLE MCGINN: Michael, can we just
13 for the record agree that Bob is going to be the 30(b)6
14 witness for just specifically on the trade shows that are
15 attended by Pave Tech?

16 MR. O'LOUGHLIN: That is just fine. What
17 she means is 30(b)6 is a federal rule number and they allow
18 questions on certain kinds of matters, and that is what they
19 will be asking you about in this case, particularly trade
20 shows.

21 THE WITNESS: All right.

22 BY MS. COYLE MCGINN:

23 Q. Let's just move straight to the trade shows and
24 try to get this going.

25 Are you aware of the PaverCAT mark?

- 1 A. Am I aware that it is a trademark?
- 2 Q. Yes.
- 3 A. Only -- yes.
- 4 Q. How did you become aware of the PaverCAT mark?
- 5 A. Mr. Jones mentioned it last week to me.
- 6 Q. So you didn't know about it before?
- 7 A. Uh-un.
- 8 Q. When did you start working at Pave Tech?
- 9 A. Full-time five-and-a-half -- five years ago.
- 10 Q. And what was your title when you first came
- 11 over to Pave Tech?
- 12 A. Customer service representative.
- 13 Q. Are you still a customer service rep?
- 14 A. My title now is field services manager.
- 15 Q. When did that change?
- 16 A. I want to say three years ago.
- 17 Q. Okay. Have you always been either a customer
- 18 service rep or a field manager?
- 19 A. Yes.
- 20 Q. What were your duties as a customer service
- 21 rep?
- 22 A. I take sales calls and answer customer
- 23 questions. Attend trade shows.
- 24 Q. What are your duties as a field manager?
- 25 A. Very similar. Some responsibility with

1 managing people in the office, outside of that, the same
2 function I served as customer service rep.

3 Q. Where did you work before working at Pave Tech?

4 A. I had not held a full-time position before Pave
5 Tech. Right after college I started full-time. I worked
6 part-time before that.

7 Q. Where did you go to college?

8 A. I graduated from Cardinal Stritch University
9 through their -- what do you call it? Their program here.
10 Even though they are in Milwaukee, they had an outbound
11 program here in Minnesota, which is where I went to school.

12 Q. What is your degree in?

13 A. BS, BA, with computer enhancement.

14 Q. Now you had said before that the first time you
15 had heard of the PaverCAT mark was last week?

16 A. That I became aware that it was a trademark
17 name.

18 Q. You had known that Pave Tech was using the name
19 PaverCAT on a product previous to that?

20 A. Yes. As soon as we started off with the
21 product, I knew it was called PaverCAT.

22 Q. When did you start selling the product?

23 A. It is my recollection approximately five years
24 ago.

25 Q. And that would be 2000 --

1 A. 1999 possibly. I believe we took it on shortly
2 before the Mega Demo, The World of Concrete, whatever year
3 that was.

4 Q. And was the first time that you advertised the
5 PaverCAT at the Mega Demo, The World of Concrete?

6 A. When you say, "advertised," could you clarify
7 that? Did we do ads or did we take it out in public?

8 Q. The first time you took it out in public or
9 passed out any brochures related to it or put it on your
10 website?

11 A. I don't know if that was the first time we
12 had done that. It was the first time we had demoed it in
13 public, but I don't know if it had any fliers or on the
14 website previous to that.

15 Q. You just don't know?

16 A. I don't remember.

17 Q. But the first time you remember showing it in
18 public was at the Mega Demo at the World of Concrete?

19 A. Yes. That's right.

20 Q. That was the Mega Demo, World of Concrete in
21 February of 2000?

22 A. I believe so. In Orlando, Florida.

23 Q. I am going to show you a document that was
24 previously marked as Exhibit 4. Do you recognize this
25 document?

1 A. Yes, I do.

2 Q. What is this document?

3 A. This is the Show Daily. That they print one
4 each day of the World of Concrete during the -- every one is
5 different.

6 Q. Does that help you to refresh your recollection
7 on when the Mega Demo for the World of Concrete was?

8 A. Yes.

9 Q. When was it then?

10 A. February of 2000.

11 Q. I just want to talk about the World of Concrete
12 trade show generally.

13 A. Uh-huh.

14 Q. Do you know what type of consumers attend the
15 World of Concrete trade show?

16 A. Concrete paver manufacturers, it is pretty --
17 pretty much anyone involved with concrete, whether they are
18 precast, poured.

19 Q. So there would be construction?

20 A. Yeah.

21 Q. Consumers there?

22 A. Yes. Contractors, dealers, manufacturers.

23 Q. How did Pave Tech show the PaverCAT at the
24 trade show? What exactly did Pave Tech do?

25 A. World of Concrete came to Pave Tech and asked

1 us to perform a one-hour hands-on demonstration on one of
2 the days, and we exhibited as many pieces of equipment and
3 products that we offer in that one hour.

4 Q. And one of those pieces of equipment was the
5 PaverCAT?

6 A. Yes, it was.

7 Q. What other pieces of equipment did you demo
8 during that time?

9 A. Do you want me to recall as many as possible?

10 Q. Yes, as many as you can.

11 A. We demoed the Paver Maximum, Paver Extractor,
12 Paver Adjuster, Paver Persuader, The Pounder, Paver
13 Splitter, Wall Splitter, MK Diamond Brick Saw. We showed
14 our Pave Edge, Paver Edge Restraint. I believe we
15 demonstrated the JM 200 Slab Vacuum. The Mammoth Might
16 110 Vacuum.

17 Q. Was there a skid-steer loader used during the
18 demonstration?

19 A. Yes, there was, but I believe it was part of
20 the retaining wall demonstration. I'm not sure if we
21 actually ran it or the demonstration. I'm positive there
22 was a skid steer, but I'm just not sure if we used it
23 during ours.

24 It was split up. The first 15 minutes was
25 retaining wall related, which another company ran that

1 portion, and we were allowed the remaining 45 minutes
2 for our equipment.

3 Q. What was the name of the company that ran that
4 retaining wall demonstration?

5 A. I don't remember. I don't remember what the
6 name of the company was.

7 Q. Do you remember what brand the skid steer
8 loader was?

9 A. I believe it was a Bobcat.

10 Q. So you were working in conjunction with Bobcat
11 in preparing that demo for that one hour demo?

12 A. No. Bobcat was not -- we were not -- if I am
13 correct, it was Bobcat, they provided the machinery for the
14 demo, but I don't know if we worked with them specifically.
15 As far as obtaining equipment for the demo, we did not
16 request it, I don't believe.

17 Q. Was there anything else at the show? Did you
18 also show the PaverCAT at a booth?

19 A. No, we were unable to bring any equipment
20 inside that was going to be used outside, so it was not in
21 the booth during the show.

22 Q. So the only time that you showed the PaverCAT
23 was at the demo?

24 A. That is correct.

25 Q. Now, are you aware of Caterpillar, Inc.?

1 A. Yes, I am.

2 Q. Are you aware of Caterpillar using the
3 Caterpillar and CAT marks in association with skid-steer
4 loaders?

5 A. The CAT specifically, no.

6 Q. But you are aware of the Caterpillar mark being
7 used in connection with skid-steer loaders?

8 A. Yes.

9 Q. And CAT is many times used as a brand that is
10 used by Caterpillar, correct?

11 A. As I understand it, yes.

12 Q. When did you become aware of Caterpillar's use
13 of skid-steer loaders?

14 A. I can't recall specifically.

15 Q. Was it previous to you coming to work at Pave
16 Tech?

17 A. Likely no.

18 Q. Would it have been soon after you came to Pave
19 Tech?

20 MR. O'LOUGHLIN: Counsel, he has already
21 answered the question. He doesn't know the answer.

22 MS. COYLE MCGINN: Okay. I am just trying
23 to figure out a little more specifically if it was in the
24 last year or if it was five years ago.

25 MR. O'LOUGHLIN: If you have an estimate,

1 you can give it.

2 A. I never specifically seen a Caterpillar skid
3 steer, I'm just assuming they have one, and it would have
4 been within the last five years.

5 Q. When you were at the World of Concrete trade
6 show did you pass out any brochures or product sheets
7 related to the PaverCAT?

8 A. No.

9 Q. Why did you bring the PaverCAT to the trade
10 show?

11 A. To operate it in the Mega Demo.

12 Q. Were you planning on answering questions and
13 trying to sell the PaverCAT at the demo? Was that one of
14 the reasons that you brought it there?

15 A. Yes. We brought every piece of equipment to
16 show the contractors what is out there for everything
17 related to installing segmental pavers and retaining walls.

18 Q. So if I was a contractor at the World of
19 Concrete show in the year 2000, how would I have gotten
20 information about the PaverCAT?

21 A. They would have requested it and we would have
22 mailed it to them after the show.

23 Q. So would they have requested it at the demo
24 station or would they have gone back to the booth?

25 A. They would have gone back to the booth to

1 request it.

2 Q. Did anyone at the trade show show interest in
3 the PaverCAT?

4 A. Not that I recall.

5 Q. Did you get any questions regarding the
6 PaverCAT at the trade show?

7 A. Not that I recall.

8 Q. Would anyone else have received questions at
9 the trade show regarding PaverCAT?

10 A. Possibly our sales manager, Dale Sopkowiak. He
11 was in the booth immediately following the demonstration.

12 Q. Was there anyone else who would have
13 potentially received questions regarding the PaverCAT at
14 that trade show?

15 A. Besides Dale, me and Steve Jones, I don't know
16 who else would have.

17 Q. Do you know if any of the consumers at the
18 trade show believed that the PaverCAT was produced or
19 manufactured by Caterpillar?

20 A. Do I know?

21 Q. Yes.

22 A. No.

23 Q. Did you receive any questions from any
24 consumers asking whether the PaverCAT was produced or
25 manufactured or associated with Caterpillar?

1 (Whereupon the requested portion of the record
2 was read aloud by the Court Reporter.)

3 Q. Would those people possibly be confused and
4 believe that the PaverCAT was produced by Caterpillar?

5 A. I don't know.

6 Q. You don't know?

7 A. No.

8 Q. Were you working at Pave Tech when the PaverCAT
9 mark was chosen?

10 A. Yes.

11 Q. Do you know why Pave Tech chose to use the word
12 "CAT" in the Pave Tech PaverCAT?

13 A. No.

14 Q. Did Pave Tech attend the World of Concrete
15 trade show in 2000?

16 A. I don't know.

17 Q. I am going to show you a document that was
18 previously marked as Exhibit 29. Do you recognize this
19 document?

20 A. Yes, I do.

21 Q. What is this document?

22 A. It is a previous exhibit from the World of
23 Concrete, or I'm sorry, it is an exhibit as of May 1999 for
24 the World of Concrete 2000.

25 Q. Now if you turn to, there is little numbers at

1 the bottom of this document, PT 655?

2 A. Uh-huh.

3 Q. And look in the left-hand column. Do you see
4 that Caterpillar is listed?

5 A. Yes, I do.

6 Q. Does this help refresh your recollection as
7 to whether or not Caterpillar was at the World of Concrete
8 trade show?

9 A. No.

10 Q. It doesn't?

11 A. No.

12 Q. According to this document was Caterpillar an
13 exhibitor?

14 A. Yes.

15 Q. You don't remember seeing Caterpillar, though,
16 at the trade show?

17 A. Correct. I do not remember seeing them.

18 Q. Do you remember seeing any Caterpillar
19 equipment at the trade show?

20 A. No.

21 Q. Have you ever attended a trade show on behalf
22 of Pave Tech where Caterpillar was also attending?

23 A. Possibly.

24 Q. Could you tell me what those trade shows are?

25 A. Specifically? I cannot remember a single trade

1 show where I have seen Caterpillar at, that I had been there
2 for Pave Tech at a trade show.

3 Q. But it is possible that Caterpillar was at some
4 of the trade shows that Pave Tech attended?

5 A. Yes.

6 Q. Do you know what other trade shows Pave Tech
7 showed the PaverCAT at?

8 A. Specifically? Off the top of my head, I cannot
9 remember. I would have to go back to my records, unless you
10 have helpful hints.

11 Q. I have some helpful hints.

12 A. Okay. Thank you.

13 Q. I am going to show you a document that was
14 previously marked as Exhibit 25.

15 A. Uh-huh. (Reviewing.)

16 Q. Do you recognize this document?

17 A. Yes, I do.

18 Q. What is this document?

19 A. This would be the paperwork for World of
20 Concrete 2002.

21 Q. And did Pave Tech attend this trade show?

22 A. Yes, we did.

23 Q. I am going to direct your attention to the
24 document number PT 773.

25 A. PT 773. Yes.

1 Q. There is a reference about two-thirds of the
2 way down the column on the left to PaverCAT.

3 A. Uh-huh. Yes.

4 Q. Does this help refresh your recollection as to
5 whether or not PaverCAT was shown at the World of Concrete
6 2002 trade show?

7 A. Yes, it was there.

8 Q. It was there?

9 A. Yes.

10 Q. Whose handwriting is this on this document?

11 A. This would be mine.

12 Q. How did you show the PaverCAT at the World of
13 Concrete 2002 trade show?

14 A. It was parked in our booth. It was not
15 demonstrated.

16 Q. Did you hand out any fliers or brochures or
17 pamphlets?

18 A. I believe it was a video at that time. I do
19 not recall if we had specific literature created for this
20 piece of equipment yet.

21 Q. Were you handing out the video at the trade
22 show?

23 A. Yes.

24 Q. Were you showing the video at the trade show
25 too?

1 A. Yes, we were.

2 Q. So, you had a PaverCAT at the trade show and
3 you were showing the video?

4 A. As I recall it, yes.

5 Q. Do you know whether or not Caterpillar was at
6 this trade show?

7 A. I do not know.

8 Q. Did you receive any inquiries about the
9 PaverCAT product at that trade show?

10 A. I do not recall, no.

11 Q. Do you know who would have received any
12 inquiries about the PaverCAT product at that trade show?

13 A. Any of the employees that were working in the
14 booth possibly, which --

15 Q. Who would that have been?

16 A. That would have been either myself, Steve
17 Jones, Dale Sopkowiak or Glenn Wroblewski.

18 Q. Do you know if any consumers at that trade show
19 believed that the PaverCAT was produced or manufactured by
20 Caterpillar?

21 A. No.

22 Q. Would all of the attendees at this trade show
23 have been familiar with Pave Tech?

24 A. All of the attendees? No.

25 Q. This is, again, a trade show that is for the

1 general construction market?

2 A. Yes.

3 Q. I am going to show you a document that was
4 previously marked as Exhibit 27. Do you recognize this
5 document?

6 A. Yes, I do.

7 Q. What is this document?

8 A. This would be paperwork related to our display
9 at the Landscape Ontario 2001 in Toronto, Ontario.

10 Q. And Pave Tech attended this trade show?

11 A. Yes. Yes.

12 Q. I am going to direct your attention to the
13 document marked 1845.

14 Do you remember whether or not Pave Tech showed
15 the PaverCAT at this trade show?

16 A. Yes. Yes, we did.

17 Q. And according to this document it states that
18 there was a PaverCAT at the trade show?

19 A. Yes, there was one.

20 Q. Do you remember how Pave Tech displayed the
21 PaverCAT at this trade show?

22 A. Yes. It was parked at our booth.

23 Q. Was there a demonstration?

24 A. No.

25 Q. Did you pass out any literature at this trade

1 show related to the PaverCAT?

2 A. Not that I recall.

3 Q. Was there a video that was being passed out at
4 the trade show?

5 A. Yes.

6 Q. And that had the PaverCAT in the video?

7 A. I am not sure in 2001 if we had the video
8 revised to include the PaverCAT. I do not believe it was.

9 Q. Was the video also playing in the booth?

10 A. Yes.

11 Q. Do you remember whether or not Caterpillar
12 attended this trade show?

13 A. No, I do not remember.

14 Q. Did you receive any inquiries about the
15 PaverCAT at this trade show?

16 A. Not that I recall.

17 Q. Who would have received, or who possibly could
18 have received inquiries about the PaverCAT at this trade
19 show? —

20 A. The same gentlemen; myself, Steve Jones, Dale
21 Sopkowiak or Glenn Wroblewski.

22 Q. Now this trade show, what type of market was it
23 targeting?

24 A. The Landscape Ontario?

25 Q. Yes.

1 A. Landscape contractors, dealers and
2 manufacturers in general in Canada.

3 Q. So would all of the attendees at this trade
4 show have been familiar with Pave Tech?

5 A. No.

6 Q. Do you know if any of the consumers at that
7 trade show believed that the PaverCAT was produced,
8 manufactured or associated with Caterpillar?

9 A. No. No.

10 Q. No? All right. I am going to show you a
11 document that was previously marked as Exhibit 26. Do you
12 recognize this document?

13 A. (Reviewing.) Yes. It appears to be related
14 information to the GIE show 2002.

15 Q. And what is the GIE show?

16 A. The GIE is the Green Industry Expo, which
17 typically draws in landscape and some construction
18 contractors, dealers and manufacturers.

19 Q. So would everyone that attended the GIE trade
20 show be familiar with Pave Tech?

21 A. No.

22 MR. O'LOUGHLIN: Off the record.

23 (Off the record.)

24 BY MS. COYLE MCGINN:

25 Q. Do you remember whether or not the PaverCAT was

1 shown at the GIE 2002 trade show?

2 A. I do not remember.

3 Q. If you go to document PT 2708. About halfway
4 down this document there is a reference to PaverCAT and it
5 is there is two references to PaverCAT, and it is stricken,
6 they have a line through them.

7 Does this help refresh your recollection as to
8 whether or not the PaverCAT was shown at the GIE 2002 trade
9 show?

10 A. I don't remember how I set this list up for
11 packing.

12 Looking at this, I believe that we did not have
13 it at the show.

14 Q. Do you remember whether or not Caterpillar
15 attended this trade show?

16 A. No.

17 Q. If you refer to document 2770, in the
18 right-hand column there is a reference to Caterpillar.
19 Does this help refresh your recollection on whether or
20 not Caterpillar attended this trade show?

21 A. I see that they were at the show, but I do not
22 remember them being at the show.

23 Q. Did you receive any inquiries about the
24 PaverCAT at this trade show?

25 A. No.

1 Q. In the year 2000 do you know what other trade
2 shows Pave Tech attended?

3 A. If you have any paperwork to help me? I can't
4 remember. GIE in 2000. It was likely the ASLA show.

5 Q. I am going to give you a document that was
6 previously marked as Exhibit 28. Do you recognize this
7 document?

8 A. Yes. It is --

9 Q. I'm sorry, I am giving you the wrong document.

10 A. All right.

11 Q. Here you go (handing.)

12 A. Thank you. Paperwork from the GIE show 2000.

13 Q. Did Pave Tech attend this trade show?

14 A. Yes.

15 Q. Did Pave Tech show the PaverCAT at this trade
16 show?

17 A. I don't remember.

18 Q. This trade show is targeted to landscapers; is
19 that correct?

20 A. Yes, that is correct.

21 Q. Would all of the attendees at this trade show
22 be familiar with Pave Tech?

23 A. No.

24 Q. Do you know if Caterpillar attended this trade
25 show?

1 A. No.

2 Q. Did you receive any inquiries regarding the
3 PaverCAT product at this trade show?

4 A. No.

5 Q. I am showing you a document that was previously
6 marked as Exhibit 30. Do you recognize this document?

7 A. It appears to be the show guide or flier for
8 the Masonry Expo 2000.

9 Q. Did Pave Tech attend this trade show?

10 A. Yes, we did.

11 Q. Who is this trade show? Who are the consumers
12 at this trade show? Who is it targeted to?

13 A. Mainly manufacturers and dealers of segmental
14 precast concrete, pavers, retainer walls.

15 Q. Would consumers from the general construction
16 industry be at this trade show?

17 A. Possibly.

18 Q. Would all of the attendees at this trade show
19 be familiar with Pave Tech?

20 A. No.

21 Q. Did you in any way show the PaverCAT at this
22 trade show?

23 A. No.

24 Q. Would there have been a video that would have
25 been shown at this trade show that would have featured the

1 PaverCAT?

2 A. No.

3 Q. Would there have been any literature at this
4 trade show related to the PaverCAT?

5 A. No.

6 Q. I'm going to show you a document that was
7 previously marked as Exhibit 31. Do you recognize this
8 document?

9 A. (Reviewing.) Yes, it is paperwork related to
10 the ASLA 2000.

11 Q. What does the ASLA stand for?

12 A. It is some -- American Society of Landscape
13 Architects I believe.

14 Q. So again, this is a trade show for the
15 landscape industry?

16 A. Specifically landscape architects.

17 Q. Would everyone at this trade show be familiar
18 with Pave Tech?

19 A. No.

20 Q. Was the PaverCAT shown at this trade show?

21 A. No, it was not.

22 Q. Would there have been a video at this trade
23 show featuring the PaverCAT?

24 A. No.

25 Q. Would there have been any literature at this

1 trade show related to the PaverCAT?

2 A. No.

3 Q. Do you know whether or not Caterpillar attended
4 this trade show?

5 A. I do not know that.

6 Q. Did you field any questions at this trade show
7 related to the PaverCAT?

8 A. I was not at this trade show.

9 Q. Who would have been at this trade show?

10 A. Dale Sopkowiak.

11 Q. Do you know whether or not Dale fielded any
12 questions related to the PaverCAT at this trade show?

13 A. No, I do not know that.

14 MS. COYLE MCGINN: Would you mark this,
15 please.

16 (CRAMER Deposition Exhibit 33 marked for
17 identification.)

18 BY MS. COYLE MCGINN:

19 Q. I am handing you a document that was previously
20 marked as Exhibit 33. Do you recognize this document?

21 A. It is a list of exhibitors as of a certain date
22 for the ASLA 2001 show.

23 Q. Did Pave Tech attend the ASLA 2001 show?

24 A. I believe so. I would have to confirm that.

25 Q. If you look on Page PT 3253, almost all of the

1 way down, there is a reference to Pave Tech. Does that help
2 your recollection?

3 A. Yes. We did attend.

4 Q. Do you know whether or not that PaverCAT was
5 shown at this trade show?

6 A. It was not.

7 Q. Was there any literature related to the
8 PaverCAT at this trade show?

9 A. No.

10 Q. Would there have been a video featuring
11 PaverCAT at this trade show?

12 A. No.

13 Q. Do you know whether or not Caterpillar attended
14 this trade show?

15 A. I do not know.

16 Q. As we discussed before, this is a trade show
17 that is directed towards landscape architects?

18 A. Yes.

19 MS. COYLE MCGINN: I will give you another
20 document.

21 (CRAMER Deposition Exhibit 34 marked for
22 identification.)

23 BY MS. COYLE MCGINN:

24 Q. I am handing you a document that was previously
25 marked Exhibit 34. Do you recognize this document?

1 A. (Reviewing.) Yes. This is paperwork related
2 to the Expo 2001 in Louisville.

3 Q. Is this the Masonry Expo?

4 A. No, this is a different show. After
5 attending -- specifically it is related to landscapers.

6 Q. So there would be people at this trade show
7 that would not be familiar with Pave Tech?

8 A. That is correct.

9 Q. Do you know whether or not Caterpillar attended
10 this trade show?

11 A. I do not know.

12 Q. Did Pave Tech show the PaverCAT at this trade
13 show?

14 A. No, we did not.

15 Q. Was there any literature related to PaverCAT at
16 this trade show?

17 A. No.

18 Q. Would there have been a video at this trade
19 show featuring a PaverCAT?

20 A. There was a video. I just do not know if that
21 was the revised that had the PaverCAT in the video.

22 Q. Did you receive any inquiries regarding the
23 PaverCAT at this trade show?

24 A. Not that I recall.

25 Q. Would anyone else have received inquiries at

1 this trade show related to the PaverCAT?

2 A. No. I was the only one there.

3 MS. COYLE MCGINN: Mark this, please.

4 (CRAMER Deposition Exhibit 35 marked for
5 identification.)

6 BY MS. COYLE MCGINN:

7 Q. You have just been handed a document that was
8 marked Exhibit 35. Do you recognize this document?

9 A. Yes. It is our contract and invoices for the
10 Masonry Expo 2001.

11 Q. As we discussed before, the Masonry Expo
12 would have attendees related to the general contracting,
13 construction industry?

14 A. Possibly. Specifically segmental precast
15 concrete and retaining wall pavers.

16 Q. And Pave Tech attended this trade show?

17 A. Yes.

18 Q. Do you know whether or not Caterpillar attended
19 this trade show?

20 A. I do not recall.

21 Q. Was the PaverCAT shown at this trade show?

22 A. No.

23 Q. Was there any literature related to PaverCAT at
24 this trade show that Pave Tech handed out?

25 A. Not that I recall.

1 Q. Was there a video at this trade show?

2 A. Yes, there is a video. I am not sure if it was
3 the revised video with the PaverCAT in it.

4 Q. Did you receive any questions related to the
5 PaverCAT at this trade show?

6 A. Not that I recall.

7 Q. Would anyone else have received questions?

8 A. Possibly Dale Sopkowiak or Glenn Wrobleski.

9 Q. Stephen Jones wasn't at this trade show?

10 A. He was at the trade show, but did not attend
11 the booth.

12 Q. Okay.

13 (CRAMER Deposition Exhibit 36 marked for
14 identification.)

15 BY MS. COYLE MCGINN:

16 Q. You have just been handed a document that was
17 marked Exhibit 36. Do you recognize this document?

18 A. (Reviewing.) It appears to be more paperwork
19 from the GIE 2001 show.

20 Q. Did Pave Tech attend this trade show?

21 A. Yes, we did.

22 Q. Did Pave Tech show the PaverCAT at this trade
23 show?

24 A. I don't remember.

25 Q. Do you know if there was any literature handed

1 out related to the PaverCAT at this trade show?

2 A. I don't remember.

3 Q. Would there have been a video at this trade
4 show that would have featured PaverCAT?

5 A. It would have been a video playing the tools.
6 I don't remember if it had the updated version with the
7 PaverCAT in it yet.

8 Q. Do you remember receiving any inquiries related
9 to the PaverCAT at this trade show?

10 A. I do not.

11 Q. Would anyone else have received inquiries
12 related to PaverCAT at this trade show?

13 A. Possibly Steve Jones.

14 (CRAMER Deposition Exhibit 37 marked for
15 identification.)

16 BY MS. COYLE MCGINN:

17 Q. You have just been handed a document that was
18 marked Exhibit 37. Do you recognize this document?

19 A. It appears to be a list of exhibitors at the
20 World of Concrete 2001 show.

21 Q. Did Pave Tech attend this show?

22 A. Yes, we did.

23 Q. Was the PaverCAT shown at this show?

24 A. I can't remember.

25 Q. Do you know whether or not there was any

1 literature related to the PaverCAT handed out at the show?

2 A. I can't remember that either.

3 Q. Was there a video related to the PaverCAT
4 handed out at the show?

5 A. Again, that same video at 2001, I don't know,
6 we played the video and passed the videos out, but I don't
7 remember if it had the PaverCAT in it yet.

8 Q. Do you know whether or not Caterpillar attended
9 this show?

10 A. No.

11 Q. I am going to direct your attention to document
12 713. The column on the left, about three-quarters of the
13 way down.

14 A. (Reviewing.)

15 Q. Does this refresh your recollection on whether
16 or not Caterpillar attended this trade show?

17 A. No.

18 Q. Did Caterpillar attend this trade show
19 according to this document?

20 A. According to this document, yes.

21 Q. Would you agree with me that Caterpillar and
22 Pave Tech have both attended some of the same trade shows?

23 A. Yes.

24 Q. It is possible that some attendees at trade
25 shows unfamiliar with Pave Tech might mistakenly believe

1 the CAT product or somehow believe that -- I'm sorry, the
2 PaverCAT product, somehow believed that the Pave Tech
3 product was somehow associated with Caterpillar?

4 A. It is possible.

5 Q. Did you show the PaverCAT at any trade shows in
6 the year 2003?

7 A. No.

8 Q. Would there have been videos shown at any of
9 the trade shows in 2003 that would have featured the
10 PaverCAT?

11 A. Yes. There would have been videos showing at
12 some of the shows that showed the PaverCAT in it.

13 Q. Do you remember what shows those would have
14 been shown at?

15 A. Not without seeing a list of all of the shows
16 that we did.

17 MS. COYLE MCGINN: Mark this, please.

18 (CRAMER Deposition Exhibit 38 marked for
19 identification.)

20 BY MS. COYLE MCGINN:

21 Q. You have just been handed a document that was
22 previously marked as Exhibit 38.

23 Do you recognize this document?

24 A. Yes, it is a list of shows for 2003 that I
25 created.

1 Q. Does this document help refresh your
2 recollection on which trade shows the PaverCAT video was
3 shown or a video that featured the PaverCAT was shown?

4 A. Let me read through this quickly and I can tell
5 you.

6 Q. Okay.

7 A. (Reviewing.)

8 MS. INNIS: Off the record.

9 (Off the record.)

10 BY MS. COYLE MCGINN:

11 Q. So now that you looked at Exhibit 38, do you
12 remember which trade shows Pave Tech showed the video which
13 features the PaverCAT?

14 A. The trade shows I know for sure is Ideal
15 Concrete and Block, World of Concrete in Las Vegas, the
16 Manufactured Concrete Products Expo.

17 Q. Wait a second. Where is that?

18 A. At the bottom of Page one. The MCPX Expo. And
19 the Green Industry Expo.

20 MR. O'LOUGHLIN: Counsel, let me make
21 sure, I am not trying to interrupt his testimony, but is the
22 question which shows PaverCAT was shown at during 2003?

23 MS. COYLE MCGINN: No, the video featuring
24 PaverCAT was shown.

25 MR. O'LOUGHLIN: Okay. Thank you.

1 Q. Is that it?

2 A. That was all.

3 Q. Let's go to the Ideal Concrete Block Show.

4 A. Uh-huh.

5 Q. Did you receive any inquiries at that show
6 related to the PaverCAT?

7 A. Not that I recall.

8 Q. Who else would have been at that show that may
9 have fielded some inquiries?

10 A. Steve Jones.

11 Q. Who is that show targeted towards?

12 A. Ideal Concrete Block is a paver manufacturer,
13 and they invite their contractors in their area and their
14 dealers of segmental paver and retainer wall pavers. And in
15 2003 they put on a couple day hands-on demonstration and
16 product information on what they manufacture.

17 Q. Do you know whether or not Caterpillar was at
18 that trade show?

19 A. I do know. They were not.

20 Q. The World of Concrete, the World of Masonry, in
21 2003.

22 A. Uh-huh.

23 Q. Did you receive any inquiries at that trade
24 show related to the PaverCAT?

25 A. Not that I recall.

1 Q. Would anyone else have received inquiries at
2 that show?

3 A. Possibly Steve Jones. I can't remember if
4 there was any other employees of Pave Tech working in the
5 booth. Glenn Wrobleski was there, too. Possibly him.

6 Q. Do you know whether or not Caterpillar was at
7 that show?

8 A. I do not know.

9 Q. But Caterpillar has been at that show in the
10 past?

11 A. Yes.

12 Q. What about the Manufactured Concrete Products
13 Expo?

14 A. What type of show is it?

15 Q. Yes. What type of show was that?

16 A. The MCPX, Manufactured Concrete Products Expo
17 is a combination of two shows. Previously the Masonry Expo
18 was separate from another show called the MCX, and they
19 combined the two shows, MCX was specifically concrete pipe
20 and concrete manhole risers.

21 Q. So this was a combination of the Masonry Expo
22 and this pipe?

23 A. Yes, and this Manufactured Concrete Expo.

24 Q. Okay. And the Masonry Expo, you said before,
25 possibly would have general contractors at it, construction

1 people?

2 A. Possibly.

3 Q. Did you receive any inquiries at this trade
4 show?

5 A. I was not at that show.

6 Q. I'm sorry, related to the PaverCAT?

7 A. I was not at this show.

8 Q. Who was at that show?

9 A. That would be Dale Sopkowiak, Glenn Wrobleski,
10 maybe Steve Jones. I believe he came in after the show.

11 Q. Do you know whether or not Caterpillar was at
12 the MCPX?

13 A. I do not.

14 Q. And the Green Industry Expo. Did you receive
15 any inquiries at the Green Industry Expo related to the
16 PaverCAT?

17 A. Not that I recall.

18 Q. Who else was at the Green Industry Expo?

19 A. Two Pave Tech employees, Joel Berthiune
20 (phonetic) and Pat Wensel (phonetic).

21 Q. Would they have received any inquiries?

22 A. I do not know.

23 Q. Do you know whether or not Caterpillar attended
24 this trade show?

25 A. I do not know.

1 (CRAMER Deposition Exhibit 39 marked for
2 identification.)

3 BY MS. COYLE MCGINN:

4 Q. You have just been handed a document that was
5 previously marked Exhibit 39. Do you recognize this
6 document?

7 A. (Reviewing.) This appears to be information
8 specifically for exhibitors for the GIE trade show 2003.

9 Q. I am going to direct your attention to document
10 2817.

11 A. Uh-huh.

12 Q. At the bottom of that document. Does this
13 document help refresh your recollection on whether or not
14 Caterpillar was at this trade show?

15 A. No.

16 Q. Was Caterpillar a sponsor of this trade show?

17 A. According to this document, yes.

18 MR. O'LOUGHLIN: 24 was relevant to the
19 Brick Show in 2002.

20 MS. COYLE MCGINN: Yes. Here it is.

21 (Off the record.)

22 BY MS. COYLE MCGINN:

23 Q. I am going to hand you a document that was
24 previously marked Exhibit 24. Do you recognize this
25 document?

1 A. (Reviewing.) It is information sent out to
2 exhibitors to get them an exhibit at the Brick Show 2002,
3 as well as what appears to be our contract for space in that
4 trade show.

5 Q. Do you know whether or not Pave Tech showed the
6 PaverCAT at this trade show?

7 A. We did not.

8 Q. Was there a video shown at this trade show that
9 featured the PaverCAT?

10 A. I don't know.

11 Q. Do you know whether or not Caterpillar attended
12 this trade show?

13 A. No, I do not.

14 Q. Did you attend this trade show?

15 A. No, I did not.

16 Q. Who did attend this trade show?

17 A. Dale Sopkowiak and possibly Steve Jones.

18 (CRAMER Deposition Exhibit 40 marked for
19 identification.)

20 BY MS. COYLE MCGINN:

21 Q. You have just been handed a document that was
22 previously marked Exhibit 40. Do you recognize this
23 document?

24 A. (Reviewing.) It looks like promotional
25 material sent out to potential exhibitors, as well as a list

1 of current exhibitors.

2 Q. For which trade show?

3 A. For the ASLA 2002.

4 Q. And again, the ASLA is for the landscape
5 architects?

6 A. Specifically, yes.

7 Q. Did Pave Tech attend this trade show?

8 A. I believe so.

9 Q. It might help to refresh your recollection if
10 you go to 3284.

11 A. According to this, yes, we did.

12 Q. Did you show the PaverCAT at this trade show?

13 A. No, we did not.

14 Q. Do you know if the video featuring the PaverCAT
15 was shown at this trade show?

16 A. No, I don't know if it was shown or not. I did
17 not attend this trade show.

18 Q. Do you know if there was literature handed out
19 at the trade show on the PaverCAT?

20 A. I don't know for sure.

21 Q. Do you know who did attend this trade show?

22 A. Dale Sopkowiak.

23 Q. Did anyone else?

24 A. Not that I know of.

25 Q. Do you happen to know whether or not

1 Caterpillar attended this trade show?

2 A. No, I do not.

3 (CRAMER Deposition Exhibit 41 marked for
4 identification.)

5 BY MS. COYLE MCGINN:

6 Q. You have been handed a document that was
7 previously marked as Exhibit 41. Do you recognize this
8 document?

9 A. It appears to be the information sent out to
10 exhibitors for the Masonry Expo 2002.

11 Q. Did Pave Tech attend this trade show?

12 A. Yes, we did.

13 Q. Was the PaverCAT shown at this trade show?

14 A. No.

15 Q. Was the video featuring the PaverCAT shown at
16 this trade show?

17 A. I do not know.

18 Q. Was any literature related to the PaverCAT
19 handed out at this trade show?

20 A. I don't know.

21 Q. Did Caterpillar attend this trade show?

22 A. I don't know.

23 Q. Did you receive any inquiries related to the
24 PaverCAT product at this trade show?

25 A. I did not attend this trade show.

1 Q. You didn't attend? Who did attend?

2 A. Dale Sopkowiak and Glenn Wrobleski.

3 Q. Was there anyone else?

4 A. Possibly Steve Jones.

5 Q. Have you conducted any educational seminars
6 related to the PaverCAT or that included the PaverCAT?

7 A. Yes.

8 Q. When did you conduct those seminars?

9 A. I would have to go back to all of my trade show
10 and Exhibit files to answer that question.

11 Q. Would the demonstrations have been at the trade
12 shows that we already discussed?

13 A. Only the World of Concrete 2000 in Orlando,
14 Florida during the Mega Demo.

15 Q. So where would the demonstrations have taken
16 place? Would they have been at dealers?

17 A. If they are -- I can recall one half-day
18 seminar in Minnesota. I can't remember the specific date or
19 year. That we had the PaverCAT parked and moved two or
20 three vans of pavers with it.

21 Q. Do you remember any other educational seminars
22 that Pave Tech conducted that included the PaverCAT?

23 A. None that I can recall.

24 Q. Did anyone at that seminar inquire as to who
25 manufactured the PaverCAT?

1 way with Caterpillar?

2 A. No, they did not.

3 Q. Where did these people learn about the
4 PaverCAT?

5 A. I don't specifically remember any of the phone
6 calls telling me. I can only assume. I know word of mouth
7 travels around the industry and possibly the web sites or
8 the price list.

9 Q. Do you know who manufactures the PaverCAT?

10 A. I believe it is a company in Italy, they call
11 it a roll mop over there. I can't remember the name of the
12 company that makes it over there.

13 Q. Do you know why it is called a roll mop?

14 A. I have no idea. I believe it translates to
15 stinky fish or something.

16 Q. Now when someone asks you, you said you got
17 questions about what the PaverCAT is?

18 A. Uh-huh.

19 Q. What would you say?

20 A. I would typically pass them off to Glenn
21 Wrobleski.

22 Q. If I asked you what the PaverCAT is, what would
23 you say?

24 A. It relates to our other product called the
25 Paver Cart. I would simply explain it to them as a ride-on

1 motorized Paver Cart; although, it has many other possible
2 attachments.

3 Q. What are the other attachments?

4 A. That I know of?

5 Q. Yes.

6 A. A hydraulic rotating broom, a small tilting
7 bucket. That's all I know of.

8 Q. Can it perform some of the same functions as a
9 skid-steer loader?

10 A. One.

11 Q. What is that function?

12 A. Back dragging.

13 Q. Could a skid-steer loader move pavers?

14 A. Not in the same fashion.

15 Q. But it can move pavers?

16 A. Can it physically lift pavers?

17 Q. Yes.

18 A. Yes.

19 Q. And move them?

20 A. With a pallet, yes.

21 Q. Do you agree that paver is a generic name for a
22 type of brick?

23 A. Yes.

24 Q. As a marketing person do you believe that
25 PaverCAT is an apt name for this product?

1 A. Yeah, it ties in to our other product names.

2 Q. Why was the CAT portion of the mark chosen for
3 the PaverCAT?

4 A. Mr. Jones named that product, so I do not know.

5 Q. Would you agree that CAT is a well-known brand
6 name for heavy equipment that is used by Caterpillar?

7 A. Heavy earth moving equipment, yes.

8 Q. Caterpillar also has a line of compact
9 equipment; is that correct?

10 A. Not that I know of.

11 Oh, I thought you meant compaction equipment.

12 Q. No. Compact, like mini equipment?

13 A. Not that I have seen, but yes.

14 Q. So you are aware of their line of compact
15 equipment?

16 A. Such as skid steers?

17 Q. Yes.

18 A. Yes.

19 Q. Have there ever been any inquiries about the
20 relationship between Probst and Pave Tech?

21 A. I'm sorry?

22 Q. Have there ever been any inquiries? Has anyone
23 ever asked is Pave Tech associated with Probst?

24 A. Yes, people have asked that.

25 Q. Why do you think people have asked that?

1 A. They are curious. The questions I have
2 received are, "Does Pave Tech own Probst? Does Probst own
3 Pave Tech?"

4 Q. Is that because the Probst name is on the Pave
5 Tech product?

6 A. Yes.

7 MS. COYLE MCGINN: Can I just take a
8 minute?

9 MR. O'LOUGHLIN: Sure.

10 (Off the record.)

11 BY MS. COYLE MCGINN:

12 Q. You were talking before about attachments that
13 can be used with the PaverCAT.

14 A. Uh-huh.

15 Q. Can any of those attachments be used with a
16 skid-steer loader?

17 A. As I understand it, no, due to the mounting.

18 Q. Do you know if there are any attachments that
19 are used with -- that are manufactured by other companies
20 that can be used with the PaverCAT?

21 A. No.

22 Q. They can't be?

23 A. Not that I know of.

24 Q. Is Pave Tech currently selling the PaverCAT
25 product?

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)
)
Petitioner,)
)
v.)
)
PAVE TECH, INC.,)
)
Respondent.)

Cancellation No. 92041776

TTAB

**PETITIONER'S NOTICE OF RELIANCE ON STEPHEN R. JONES
AND ROBERT L. CRAMER DEPOSITION EXHIBITS**


In accordance with 37 CFR § 2.120(j), Petitioner offers in evidence the following deposition exhibits from the deposition of Stephen R. Jones, President and Co-Owner, and F.R.C.P. 30(b)(6) witness of Registrant, Exhibit Nos.: 1, 3; 4; 6 (VCR tape); 7; 8; 9; 10; 11; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 24; 25; 26; 27; 28; 29; 30; 31; 32 (DVD) and Robert L. Cramer F.R.C.P. 30(b)(6) witness of Registrant, Exhibit Nos. 33; 34; 35; 36; 37; 38; 39; 40; and 41.

Date: August 4, 2005

Respectfully submitted,

LOEB & LOEB LLP

By:


Edward G. Wierzbicki
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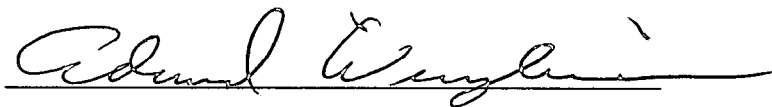
Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 on August 4, 2005.



CERTIFICATE OF SERVICE

I, Edward G. Wierzbicki, hereby certify that I caused a copy of the foregoing
**PETITIONER'S NOTICE OF RELIANCE ON STEPHEN R. JONES AND ROBERT L.
CRAMER DEPOSITION EXHIBITS** to Michael J. O'Loughlin, Esq., Michael J. O'Loughlin
& Associates, P.A., 400 South 4th Street, 1012 Grain Exchange Building, Minneapolis,
Minnesota 55415 (without attachments) and Rebecca Jo Bishop, Altera Law Group LLC, 6500
City West Parkway, Suite 100, Minneapolis, MN 55344, via first class mail, postage prepaid this
4th day of August, 2005.

A handwritten signature in cursive script, reading "Edward G. Wierzbicki", is written over a horizontal line.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)	
)	
Petitioner,)	
)	Cancellation No. 92041776
v.)	
)	
PAVE TECH, INC.,)	
)	
Respondent.)	

**STEPHEN R. JONES, PRESIDENT AND CO-OWNER
AND F.R.C.P. 30(B)(6) WITNESS OF REGISTRATION**

DEPOSITION EXHIBIT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EXHIBIT
JONES
1
2/23/04 @

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)	
)	
Petitioner,)	
)	Cancellation No. 41,776
v.)	
)	
PAVE TECH, INC.,)	
)	
Registrant.)	
)	
)	

AMENDED NOTICE OF DEPOSITION

TO: Michael J. O'Loughlin
Michael J. O'Loughlin & Associates, P.A.
1012 Grain Exchange Building
400 South 4th Street
Minneapolis, MN 55415

On Monday, February 23, 2004, beginning at 9:30 am, Petitioner, Caterpillar Inc., will depose the person(s) identified below before a court reporter or other person qualified to administer oaths. The depositions will take place at Lindquist & Vennum P.L.L.P., 4200 IDS Center, 80 South 8th Street, Minneapolis, MN 55402 and continue until completed. The depositions will be recorded by means chosen by Petitioner. The deponents shall include the following:

1. The officers, directors or managing agents of Registrant Pave Tech, Inc., or other persons who consent to testify on its behalf, who are most knowledgeable concerning the topics listed in Exhibit A hereto, pursuant to Fed. R. Civ. P. 30(b)(6).
2. Stephen R. Jones.

Dated: February 3, 2004

LOEB & LOEB LLP

By: 

Mary E. Innis
Nerissa Coyle McGinn
200 South Wacker Drive
Suite 3100
Chicago, Illinois 60606
Telephone: (312) 674-4780
Facsimile: (312) 674-4779

Attorneys for Petitioner

EXHIBIT A TO NOTICE OF DEPOSITION

Deposition Topics

1. The legal and organizational structure of Registrant¹ including but not limited to its relationship with Probst.
2. Registrant's creation, selection, and adoption of the mark PAVERCAT² for any products or services.
3. Registrant's first use of the mark PAVERCAT, as a trademark or otherwise.
4. The nature of the services or products provided or intended to be provided in connection with the mark PAVERCAT.
5. Any research, survey, trademark search, test, poll, interview, study or investigation related to the mark PAVERCAT, the CATERPILLAR marks,³ or the Petitioner.⁴
6. The advertising, marketing and promotion of any of Registrant's products or services under the mark PAVERCAT.
7. The trade shows attended where Pave Tech promoted its PAVERCAT products.
8. The seminars in which Pave Tech promoted its PAVERCAT products.
9. Income, revenue or dollar volume of sales for each type of product or service offered by Registrant under the mark PAVERCAT.
10. The past, present and future yearly expenditures on each type of advertising or promotion for Registrant's products or services offered under the mark PAVERCAT.

¹As used herein, the term "Registrant" includes Pave Tech, Inc., its predecessors in interest, its subsidiaries and related organizations and the officers, directors, employees, agents and representatives thereof.

²As used herein, the phrase "the mark PAVERCAT" shall mean that designation as pleaded in the Petition for Cancellation, or any other use by Registrant of a term comprised in whole or in part of "PAVERCAT."

³As used herein, the term "the CATERPILLAR marks" shall mean the marks CATERPILLAR and CAT and the design marks **CATERPILLAR** and **CAT** which are used and/or registered by Petitioner in the United States Patent and Trademark Office.

⁴As used herein, the term "Petitioner" includes Caterpillar Inc., its predecessors in interest, its subsidiaries and related organizations, and the officers, directors, employees, agents and representatives thereof.

11. The past, present and future marketing plans for any product or service offered under the mark PAVERCAT.

12. The territorial areas where Registrant offers or intends to offer for sale any product or service under the mark PAVERCAT, and the length of time in which each such product or service has been marketed in each territory.

13. The channels of trade through which Registrant offers or intends to offer products or services under the mark PAVERCAT.

14. The outlets through which Registrant's products or services under the mark PAVERCAT are sold to consumers.

15. The customers who have purchased the products or services by Registrant under the mark PAVERCAT.

16. Registrant's registrations or attempts to register the mark PAVERCAT.

17. Petitioner's use of the CATERPILLAR marks.

18. Any other names, slogans or marks used currently or which have been used by Registrant which are comprised in whole or in part of the phrase "CAT" or "KAT."

19. Registrant's partnership or relationship with Melroe Manufacturing Company, Bobcat, Ingersoll-Rand Company, and Clark Equipment Company.

20. Any third party uses, registrations or applications to register names, marks or terms which Registrant intends to rely on in this proceeding, including but not limited to third party uses, registrations, or applications to register names, marks, or terms which are composed in whole or in part of the word "CAT" or are confusingly similar to or dilutive of the mark PAVERCAT, or the CATERPILLAR marks.

21. Any instances of actual or possible confusion, mistake, deception, association or any kind between Petitioner or Petitioner's use of the CATERPILLAR marks, and Registrant or Registrant's use of the mark PAVERCAT.

22. Any objection, litigation, interferences, conflicts, opposition, or cancellation proceedings or any other inter-party proceedings in which Registrant has participated regarding its use of the mark PAVERCAT.

23. Any assignment, license or any other transfer to or from a third party of any rights Registrant claims to have in the mark PAVERCAT, or any "CAT" or "KAT" formative marks.

24. Registrant's knowledge of the goods manufactured, distributed or sold by Petitioner.

25. The factual basis for Registrant's affirmative defense that the public is accustomed to marks including the word CAT.

26. The factual basis for Registrant's affirmative defense that third party uses narrow the scope of protection to which Petitioner's CATERPILLAR marks are entitled.

27. The factual basis for Registrant's affirmative defense that there is no likelihood of confusion, mistake or deception between Petitioner's marks and the mark PAVERCAT.

28. The factual basis for Registrant's affirmative defense that Petitioner's CATERPILLAR marks and the mark PAVERCAT do not look alike, sound alike or have any similarity in meaning.

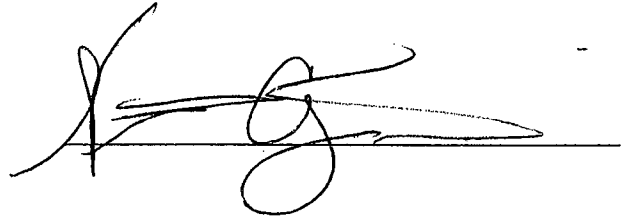
29. The factual basis for Registrant's affirmative defense that Petitioner and Respondent sell their goods through different channels of trade to different purchasers and that the goods are used for different purposes.

30. Identification and authentication of all documents produced in response to Petitioner's First Request for Production of Documents and Petitioner's First Set of Interrogatories to Registrant.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that true and correct copy of the foregoing
AMENDED NOTICE OF DEPOSITION was served via facsimile and U.S. Mail on February
3, 2004 to the following counsel of record:

Michael J. O'Loughlin
Michael J. O'Loughlin & Associates, P.A.
1012 Grain Exchange Building
400 South 4th Street
Minneapolis, MN 55415

A handwritten signature in black ink, appearing to be "MJO", is written over a horizontal line.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)	
)	
Petitioner,)	
v.)	Cancellation No. 92041776
)	
PAVE TECH, INC.,)	
)	
Registrant.)	

**STEPHEN R. JONES, PRESIDENT AND CO-OWNER
AND F.R.C.P. 30(B)(6) WITNESS OF REGISTRANT
DEPOSITION EXHIBIT 3**

75904827

TRADEMARK

75904827

EXHIBIT

JONES

E

40/22/2

PROSECUTION HISTORY

Law Office	Entry	Date	Initials
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3/13/01

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GRANTED

SUBMITTED

PTO-102

U.S. DEPARTMENT OF COM
Patent and Trademark

75-904827 +



PAVERCAT

PAVERCAT

PRINCIPAL

LAW OFFICE 104
1124

75-904827 +

FILING DATE
January 28, 2000

ORIGINAL APPLICANT
Pave Tech, Inc.

GOODS/SERVICES (CLASS 007)
mechanized equipment used to aid in the (ETC)

FILING BASIS
ITU

ORIGINAL CORRESPONDENT
MICHAEL J. O' LOUGHLIN

PUBLISHED
12/19/00

Richard Strasser



ATTORNEY ADVISOR:

FEB-23-2004 09:30
FEB-23-2004 09:09

L&L UNASSIGNED

312 674 4779

P.06/38
P.06

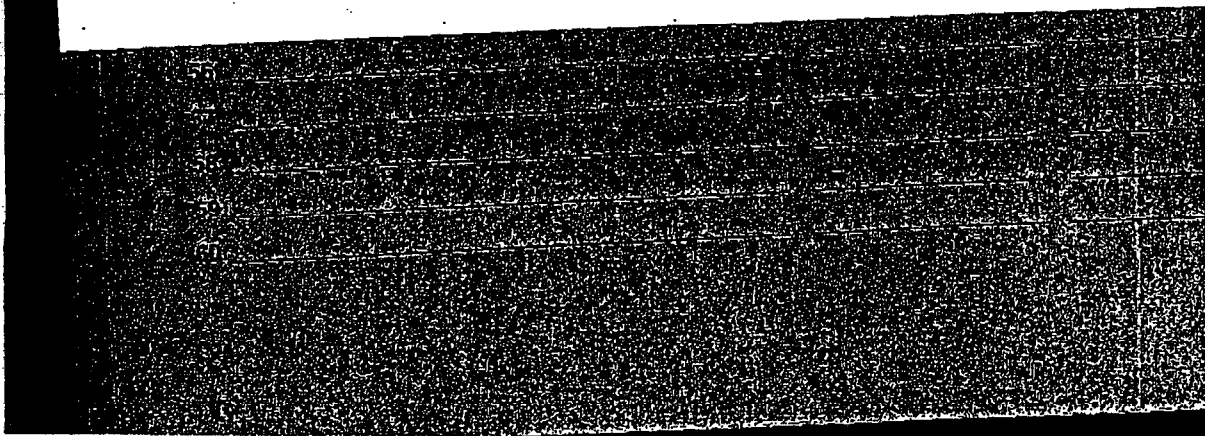
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10/18/02 14:05 FAX 612 342 2399

M. O LOUGHLIN




Received from <612 342 2399> at 10/18/02 3:04:11 PM [Eastern Daylight Time]



TRADEMARK EXAMINATION WORKSHEET

☐ AMENDMENT STAGE ☒ NO CHANGE ☒ PUBLICATION/REGISTRATION STAGE

Name: Theresa Williams LO. 114 Date 12/02/02 Serial No. 5904827

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.			
Legal Instrument Examiner (LIE)			
	Amended	Data Element	
Class Data 	<input type="checkbox"/>	<input type="checkbox"/> Prime/International Class	<input type="checkbox"/> Goods and Services
	<input type="checkbox"/>	<input type="checkbox"/> First Use Date	<input type="checkbox"/> First Use in Commerce Date
	<input type="checkbox"/>	<input type="checkbox"/> In Another Form	<input type="checkbox"/> Certification
	<input type="checkbox"/>	<input type="checkbox"/> 1b	
Mark Data	<input type="checkbox"/>	<input type="checkbox"/> Word Mark	<input type="checkbox"/> Pseudo Mark
	<input type="checkbox"/>	<input type="checkbox"/> Mark Drawing Code	<input type="checkbox"/> Design Search Code
	<input type="checkbox"/>	<input type="checkbox"/> Scan Sub Drawing	
Misc. Mark Data	<input type="checkbox"/>	<input type="checkbox"/> Mark Description	<input type="checkbox"/> Disclaimer
	<input type="checkbox"/>	<input type="checkbox"/> Lining/Stippling	<input type="checkbox"/> Name/Portrait/Consent
	<input type="checkbox"/>	<input type="checkbox"/> Translation	
Section 2(f)	<input type="checkbox"/>	<input type="checkbox"/> Section 2(f) Entire Mark	
	<input type="checkbox"/>	<input type="checkbox"/> Section 2(f) Limitation Statement	<input type="checkbox"/> Section 2(f) In Part
	<input type="checkbox"/>	<input type="checkbox"/> Amended Register	<input type="checkbox"/> Amended Register Date
Foreign Reg. Data	<input type="checkbox"/>	<input type="checkbox"/> Foreign Country	<input type="checkbox"/> 44(d)
	<input type="checkbox"/>	<input type="checkbox"/> Foreign Application Number	<input type="checkbox"/> Foreign Application Filing Date
	<input type="checkbox"/>	<input type="checkbox"/> Foreign Registration Number	<input type="checkbox"/> Foreign Registration Date
	<input type="checkbox"/>	<input type="checkbox"/> Foreign Registration Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Number
	<input type="checkbox"/>	<input type="checkbox"/> Foreign Reg. Renewal Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Date
Owner Data	<input type="checkbox"/>	<input type="checkbox"/> Owner Name	<input type="checkbox"/> DBA/AKA/TA
	<input type="checkbox"/>	<input type="checkbox"/> Address 1	<input type="checkbox"/> Address 2
	<input type="checkbox"/>	<input type="checkbox"/> City	<input type="checkbox"/> State
	<input type="checkbox"/>	<input type="checkbox"/> Zip Code	
	<input type="checkbox"/>	<input type="checkbox"/> Citizenship	<input type="checkbox"/> Entity
	<input type="checkbox"/>	<input type="checkbox"/> Entity Statement	<input type="checkbox"/> Composed of
	<input type="checkbox"/>	<input type="checkbox"/> Assignment(s)/Name Change	
Amd/Corr Restr.	<input type="checkbox"/>	<input type="checkbox"/> Concurrent Use	
Prior U.S. Reg.	<input type="checkbox"/>	<input type="checkbox"/> Prior Registration	
Correspondence	<input type="checkbox"/>	<input type="checkbox"/> Attorney	<input type="checkbox"/> Domestic Representative
	<input type="checkbox"/>	<input type="checkbox"/> Attorney Docket Number	
	<input type="checkbox"/>	<input type="checkbox"/> Correspondence Firm Name/Address	
I certify that all corrections have been entered in accordance with text editing guidelines.			
<u>Theresa Williams</u> LIE		<u>12/02/02</u> DATE	

APPLICANT: PAVE TECH, INC.
ADDRESS: 15354 Flag Avenue, P.O. Box 576,
Prior Lake, MN 55372
GOODS: Mechanized Equipment Used to Aid in the Installation of Segmental Pavers

PAVERCAT

Attorneys:

Michael J. O'Loughlin
& Associates, P.A.
1012 Grain Exchange Building
400 South 4th Street
Minneapolis, MN 55415
(612) 332-0351

01-28-2000

U.S. Patent & TMOs/TM Mar Reg 101. 921



PUBLISHED
12/19/00

REGISTER
02/04/03

TRADEMARK

7696

10/18/02 14:03 FAX 612 342 2399

M. O LOUGHLIN

003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATION

In Re Application of:
Pave Tech, Inc.
Serial No.: 75/904827
Filed: January 28, 2000
Mark: PAVERCAT

Trademark Law Office: 114
Examining Attorney:
Richard A. Straser

Box AAU/FEB
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

AMENDMENT TO ALLEGE USE UNDER 37 C.F.R. § 2.76

Sir:

Applicant requests registration of the above-identified trademark in the United States Patent and Trademark Office on the Principal Register established by the Act of 1946 (15 U. S. C. §§ 1051 *et seq.*, as amended). Three specimens showing the mark as used in commerce are submitted along with this amendment.

Applicant is using the mark in commerce on or in connection with the following goods:

MACHINES OR MACHINE PARTS USED TO AID IN THE
INSTALLATION OF SEGMENTAL PAVERS, IN INTERNATIONAL CLASS 7

The mark was first used on February 23, 2000. The mark was first used in interstate commerce on February 23, 2000.

The mark is used by application directly to the goods by use of labels or as otherwise customary in the trade.

The fee of \$100 for this amendment is submitted herewith pursuant to 37 C. F. R. § 2.6.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares

11/25/2002 LRL/LMS 00000001 75904827

01 FC:6003

100.00 OP

Received from <612 342 2399> at 10/18/02 3:04:11 PM [Eastern Daylight Time]

FEB-23-2004 09:30

FEB-23-2004 09:11

L&L UNASSIGNED

10/18/02 14:04 FAX 612 342 2399

M. O. LOUGHELIN

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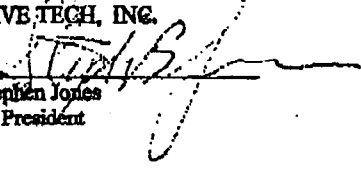
P.09/38

P.09

that he is properly authorized to execute this Amendment to Allege Use on behalf of the applicant; he believes the applicant to be the owner of the mark sought to be registered; the mark is now in use in commerce; and all statements made of his own knowledge are true and all statements made on information and belief are believed to be true.

Dated: August 1, 2000

PAVE TECH, INC.

By: 
Stephen Jones
Its President

FEB-23-2004 09:38
FEB-23-2004 09:11

L&L UNASSIGNED

312 674 4779 P.10/38
http://ram:8888/cgi-bin/fee_history.cgi P.10

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 75904827

Total Records Found: 4

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount	Mallroom Date	Payment Method
02/03/2000	00000132	Q	<u>361</u>	\$325.00	01/28/2000	OP
03/02/2001	00000206	Q	<u>362</u>	\$100.00	02/28/2001	OP
12/28/2001	00000046	Q	<u>375</u>	\$100.00	12/24/2001	OP
02/27/2002	00000041	Q	<u>364</u>	\$150.00	02/25/2002	OP

Adjustment date: 11/25/2002 LROLLING
03/02/2001 SRCED1 00000171 75904827

01 FC:362

-100.00 OP

**PETITION EXTENSION REQUEST
for Trademark Rules 2.66(c)(3) and 2.66(c)(4)**

Date:

EXT REQ GRANTED

To: ITU/Divisional Unit

Re: Serial No.

75/904827

A Petition To Revive has been granted for the above-identified application. Under Trademark Rule 2.66(c)(3), Petitioner is required to file the fees for the number of extension requests that should have been filed if the application had not been abandoned. In this case, as required, Petitioner has submitted the fee for the 1st Extension Period (insert one only - 1st, 2nd, 3rd, 4th or 5th).

However, under Trademark Rule 2.66(c)(4), Petitioner is not required to file the corresponding document. Therefore, please use this form to enter "Petition Form Extension Request Granted" in TRAM with a date of 9/3/01, which is six months from the issuance of the NOA or from the expiration of the last extension request that was granted, as appropriate.

Thank you.

Office of the Commissioner
for Trademarks

FEB-23-2004 09:30
FEB-23-2004 09:11

L&L UNASSIGNED

312 674 4779

P.12/38
P.12



02-25-2002

U.S. Patent & TM Office Mail Room 101

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.
ATTORNEYS AT LAW
400 SOUTH 4th STREET
1012 GRAIN EXCHANGE BUILDING
MINNEAPOLIS, MINNESOTA 55415

332-0351
AREA CODE 612
FAX # (612) 342-2399

February 20, 2002

Office of Assistant Commissioner for Trademarks
Attention: Petition Office
2900 Crystal Drive
Arlington, VA 22202-3513

ASST. COMM. FOR
TRADEMARKS
2002 MAR -6 P 5 53
U.S. PATENT
AND
TRADEMARK OFFICE

Re: Petition to Revive PAVERCAT Application
Serial Number: 75/904827
Applicant: Pave Tech, Inc.

Dear Sir:

This Application was deemed abandoned because the Amendment to Allege Use and the filing fee for that document were unintentionally submitted during the blackout period. On December 21, 2002, a Petition to Revive the above identified application was submitted. Copies of the Petition and Declaration are each enclosed. On January 14, 2002 a Notice of Abandonment was issued, which specified that fees for extension requests should also be included. Accordingly, enclosed herewith is a check in the amount of \$150 for an extension of time for filing a Statement of Use. I also request that the Amendment to Allege Use which was previously filed be treated as the Statement of Use. Please advise if this is not satisfactory.

Yours very truly,

MICHAEL J. O'LOUGHLIN
& ASSOCIATES, P.A.

Michael J. O'Loughlin

MJO/jfb
Enclosure

02/27/2002 MPETTY - 00000636 75904827

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02-25-2002

Patent & TM/TM Mail Report 01 08

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF THE ASSISTANT COMMISSIONER FOR TRADEMARKS

In Re Application of:
Pave Tech, Inc.
Serial No.: 75/904827
Filed: January 28, 2000
Mark: PAVERCAT
Law Office: 114
Examining Attorney: Richard Straser

2002 MAR -6 P 5 53
U.S. PATENT
AND
TRADEMARK OFFICE
ASST. COMM. FOR
TRADEMARKS

Box DAC-FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

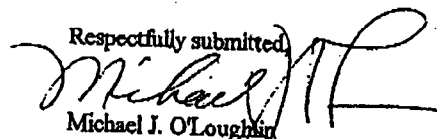
PETITION TO REVIVE ABANDONED APPLICATION

Sir:

Applicant hereby petitions for revival of the above-indicated application which was inadvertently abandoned as a result of Applicant's failure to timely file an Amendment to Allege Use subsequent to issuance of a Notice of Allowance on March 13, 2001.

Also enclosed are (1) a Declaration of the undersigned attorney setting forth the facts and circumstances surrounding the inadvertent abandonment of this application, and (2) the fee in the amount of \$100 as specified in 37 C.F.R. § 2.6.

Respectfully submitted,



Michael J. O'Loughlin
Attorney for Applicant
1012 Grain Exchange Building
Minneapolis MN 55415
Reg. No. 25,760
(612) 332-0351

Dated: December 21, 2001



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF THE ASSISTANT COMMISSIONER FOR TRADEMARKS

In Re Application of:
Pave Tech, Inc.
Serial No.: 75/904,827
Filed: January 28, 2000
Mark: PAVERCAT
Law Office: 114
Examining Attorney: Richard Straser

DECLARATION UNDER 37 C.F.R. § 2.66

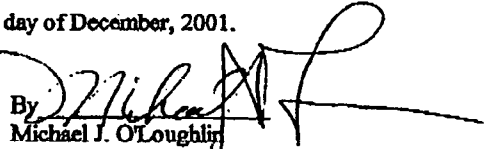
I, Michael J. O'Loughlin, declare that I am the attorney of record herein and make the following statements in support of the PETITION TO REVIVE ABANDONED APPLICATION.

1. A Notice of Publication Under 12(a) dated November 17, 2000 indicating that the publication of Pavercat would take place on December 19, 2000 was received in my office.
2. I am aware that an Amendment to Allege Use should be filed after issuance of a Notice of Allowance.
3. Nevertheless, prior to receiving a Notice of Allowance, on February 26, 2001 an Amendment to Allege Use (stating that the mark had been first used on February 23, 2000 and had been first used in interstate commerce on February 23, 2000), was transmitted to the United States Patent Office.
4. The fee of \$100 and three specimens showing the mark as used were submitted with the filing of the Amendment to Allege Use.
5. A copy of both sides of the check submitted with the Amendment to Allege Use is set forth on Exhibit A attached hereto.
6. The documents were processed on or about February 28, 2001 and the check endorsed on March 2, 2001.
7. On March 13, 2001 the Notice of Allowance issued.

8. I failed to consider the need to comply with the requirement for an allegation to be timely filed because I believed that it had already been done.
9. After several months, in November, 2001, I inquired of the USPTO as to the status of Pavercat and learned that it was considered abandoned.
10. I can give no good reason for the untimely early filing of the Amendment to Allege Use.
11. Upon discovery of the problem I placed a call to the Examining Attorney to alert him to the situation.
12. I believe that it is clear that Applicant had no intent to abandon. Filing an Amendment to Allege use with specimens and a \$100 fee are inconsistent with such an intent. An Amendment to Allege Use will be promptly filed if this Petition is granted. Applicant's rights to registration should not be adversely affected by my incorrect application of the filing procedures.

I declare further that all statements made herein of my own knowledge are true; that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration resulting therefrom.

Signed at Minneapolis, Minnesota this 21 day of December, 2001.

By 
Michael J. O'Loughlin
Attorney for Applicant
1012 Grain Exchange Building
Minneapolis MN 55415
(612) 332-0351

UNITED STATES PATENT AND TRADEMARK OFFICE

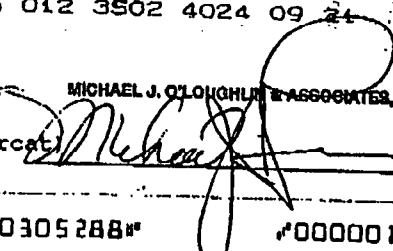
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FEB-23-2004 09:12

L&L UNASSIGNED

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P.16/38
P.16

EXHIBIT A

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A. ATTORNEYS AT LAW 400 SOUTH 4TH STREET 1012 GRAIN EXCHANGE BUILDING MINNEAPOLIS, MINNESOTA 55415		U.S. Bank Minneapolis, Minnesota 55402 FastLine SM 24-Hour Banking 812/244-4848	CHECK NO. 17-2 100 012872 810
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TO THE ORDER OF		DATE	AMOUNT
Assistant Commissioner for Trademarks		Feb 26/2001	\$100.00
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Fee-filing amendment to allege use (Paverca)		MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.	
			
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PRINTED AND RECORDED OFFICE
11-16-2001
FOR CREDIT TO THE
U.S. TREASURY

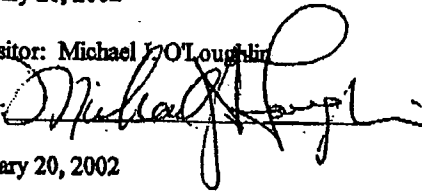
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Office of Assistant Commissioner for Trademarks, Attention: Petition Office, 2900 Crystal Drive, Arlington, VA 22202-3513:

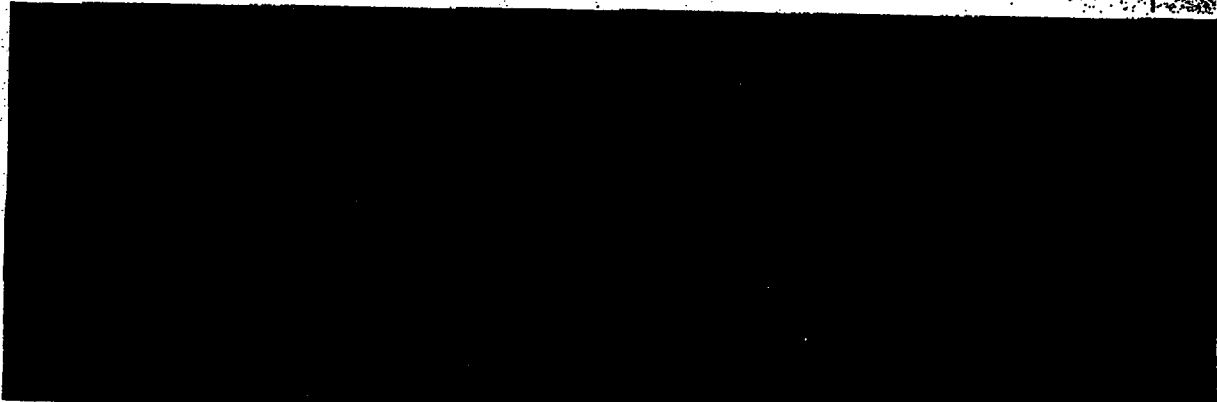
Date of Mailing: February 20, 2002

Printed Name of Depositor: Michael J. O'Loughlin

Signature of Depositor:



Date of Signing: February 20, 2002



FEB-23-2004 09:30
FEB-23-2004 09:12

L&L UNASSIGNED

312 674 4779

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P.18

10/18/02 14:03 FAX 612 342 2399

M. O LOUGHLIN

001

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.
FAX TRANSMISSION

MICHAEL J. O'LOUGHLIN

1012 Grain Exchange Building
400 South Fourth Street
Minneapolis, MN 55415
TELEPHONE: (612) 332-0351
Fax (612) 342-2399

TO: Ms. Susan White
Firm: U.S. PTO
Address: _____
Company Fax No: 703-872-9289
Telephone No: _____

No. of Pages: 6
(Including Cover Sheet)

RE: Thank you for your help.

The information contained in this facsimile message is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any disseminating, distributing or copying of this communication is strictly prohibited. If you have received this FAX in error, please immediately notify us at (612) 332-0351.

Received from <612 342 2399> at 10/18/02 3:04:11 PM (Eastern Daylight Time)

FEB-23-2004 09:30
FEB-23-2004 09:12

L&L UNASSIGNED

312 674 4779

P.19/38
P.19

10/18/02 14:04 FAX 612 342 2399

M. O LOUGELIN

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATION

In Re Application of:
Pave Tech, Inc.
Serial No.: 75/904827
Filed: January 28, 2000
Mark: PAVERCAT

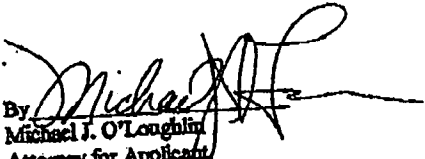
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

STATEMENT AUTHORIZING CONVERSION

Sir:

Applicant hereby authorizes usage of the copy of the Amendment to Allege Use which accompanies this Statement as the Statement of Use which is to be considered as filed effective contemporaneously with the Petition to Revive Abandoned Application filed on December 21, 2001. Applicant further authorizes the specimen which accompanies this Statement as the specimen of actual use of Pavercat.

Dated: October 18, 2002

By 
Michael J. O'Loughlin
Attorney for Applicant
1012 Grain Exchange Building
Minneapolis, MN 55415
(612) 332-0351
Reg. No. 25,760
Its President

Received from <612 342 2399> at 10/18/02 3:04:11 PM (Eastern Daylight Time)

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.
ATTORNEYS AT LAW
400 SOUTH 4th STREET
1012 GRAIN EXCHANGE BUILDING
MINNEAPOLIS, MINNESOTA 55415

332-0851
AREA CODE 612
FAX #(612) 342-3399

October 18, 2002

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

BY TELEFAX TRANSMISSION

Attention: Ms. Susan White

Re: Amendment to Allege Use, etc.
For the Mark: PAVERSAFE
Applicant: Pave Tech, Inc.
Serial No.: 76/181253

Dear Ms. White:

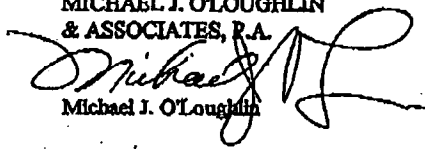
Enclosed herewith are the following documents submitted as discussed:

- a. Applicant's Amendment to Allege Use Under 37 C.F.R.;
- b. Statement Authorizing Conversion;
- c. Specimen showing the mark as used in commerce.

Please advise if the Statement Authorizing Conversion does not meet your requirements. I never have had occasion to prepare such a document previously. Thank you for your cooperation and assistance.

Yours very truly,

MICHAEL J. O'LOUGHLIN
& ASSOCIATES, P.A.


Michael J. O'Loughlin

MJO/jfb
Enclosures

ASST. COMMR. FOR
TRADEMARKS

ASST. COMMR. FOR
TRADEMARKS

2002 JAN -7 P 4:15 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE JAN -7 P 4:15
OFFICE OF THE ASSISTANT COMMISSIONER FOR TRADEMARKS

U.S. PATENT
AND
TRADEMARK OFFICE

U.S. PATENT
AND
TRADEMARK OFFICE

In Re Application of:
Pave Tech, Inc.
Serial No.: 75/904827
Filed: January 28, 2000
Mark: PAVERCAT
Law Office: 114
Examining Attorney: Richard Straser

12-26-2001
U.S. Patent & TMOR/TM Mail Rpt Dtd. 401

Box DAC-FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

REVIVED BY
OFFICE OF THE COMMISSIONER
OF TRADEMARKS
ON: 10/25/01
APPROVED BY: [Signature]

PETITION TO REVIVE ABANDONED APPLICATION

Sir:

Applicant hereby petitions for revival of the above-indicated application which was inadvertently abandoned as a result of Applicant's failure to timely file an Amendment to Allege Use subsequent to issuance of a Notice of Allowance on March 13, 2001.

Also enclosed are (1) a Declaration of the undersigned attorney setting forth the facts and circumstances surrounding the inadvertent abandonment of this application, and (2) the fee in the amount of \$100 as specified in 37 C.F.R. § 2.6.

Respectfully submitted,

[Signature]
Michael J. O'Loughlin
Attorney for Applicant
1012 Grain Exchange Building
Minneapolis MN 55415
Reg. No. 25,760 00088841 75984427
(612) 332-0351
10/25/01

Dated: December 21, 2001

100.00 00

JB
KC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF THE ASSISTANT COMMISSIONER FOR TRADEMARKS

In Re Application of:
Pave Tech, Inc.
Serial No.: 75/904,827
Filed: January 28, 2000
Mark: PAVERCAT
Law Office: 114
Examining Attorney: Richard Straser



12-26-2001

U.S. Patent & TMOR/TM Mail Rpt Dt 626

DECLARATION UNDER 37 C.F.R. § 2.66

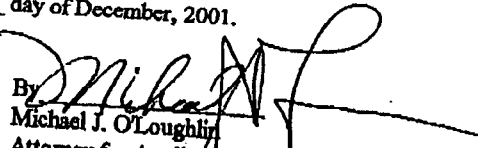
I, Michael J. O'Loughlin, declare that I am the attorney of record herein and make the following statements in support of the PETITION TO REVIVE ABANDONED APPLICATION.

1. A Notice of Publication Under 12(a) dated November 17, 2000 indicating that the publication of Pavercat would take place on December 19, 2000 was received in my office.
2. I am aware that an Amendment to Allege Use should be filed after issuance of a Notice of Allowance.
3. Nevertheless, prior to receiving a Notice of Allowance, on February 26, 2001 an Amendment to Allege Use (stating that the mark had been first used on February 23, 2000 and had been first used in interstate commerce on February 23, 2000), was transmitted to the United States Patent Office.
4. The fee of \$100 and three specimens showing the mark as used were submitted with the filing of the Amendment to Allege Use.
5. A copy of both sides of the check submitted with the Amendment to Allege Use is set forth on Exhibit A attached hereto.
6. The documents were processed on or about February 28, 2001 and the check endorsed on March 2, 2001.
7. On March 13, 2001 the Notice of Allowance issued.

8. I failed to consider the need to comply with the requirement for an allegation to be timely filed because I believed that it had already been done.
9. After several months, in November, 2001, I inquired of the USPTO as to the status of Pavercat and learned that it was considered abandoned.
10. I can give no good reason for the untimely early filing of the Amendment to Allege Use.
11. Upon discovery of the problem I placed a call to the Examining Attorney to alert him to the situation.
12. I believe that it is clear that Applicant had no intent to abandon. Filing an Amendment to Allege use with specimens and a \$100 fee are inconsistent with such an intent. An Amendment to Allege Use will be promptly filed if this Petition is granted. Applicant's rights to registration should not be adversely affected by my incorrect application of the filing procedures.

I declare further that all statements made herein of my own knowledge are true; that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application and any registration resulting therefrom.

Signed at Minneapolis, Minnesota this 21 day of December, 2001.

By 
Michael J. O'Loughlin
Attorney for Applicant
1012 Grain Exchange Building
Minneapolis MN 55415
(612) 332-0351

L&L UNASSIGNED

312 674 4779 P.24/38
P.24

EXHIBIT A

12872

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.

**ATTORNEYS AT LAW
400 SOUTH 4TH STREET
1012 GRAIN EXCHANGE BUILDING
MINNEAPOLIS, MINNESOTA 55416**

U.S. Bank

Minneapolis, Minnesota 55402
FastLineSM 24-Hour Banking 612/244-4648

CHECK NO. _____

~~17-2~~ 100 012872
910

One Hundred

00/100

PAY TO THE ORDER OF

DATE:

Feb 26/2001

AMOUNT

\$100.00

Assistant Commissioner for Trademarks

210089676 012 3502 4024 09

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.

Fee-filing amendment to allege use (Pavercat)

#0128721# 150910000221:160230305288#

✓000000 100000✓

09105-0008-0
040970564 1ST CITY
040080564 022050817-8
040080564 093067075 09

091604422 03062001 6762
S/T 121 ID 62 PST 1
ACCT 6309131860560

2007-44-455

0-11-60

104-24

492522700

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

THE TREASURY

PATENT AND TRADEMARK OFFICE
13-10-2001

FEB-23-2004 09:31
FEB-23-2004 09:13

L&L UNASSIGNED

312 674 4779 P.25/39
P.25

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Box DAC-FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513:

Date of Mailing: December 21, 2001

Printed Name of Depositor: Michael J. O'Loughlin

Signature of Depositor:

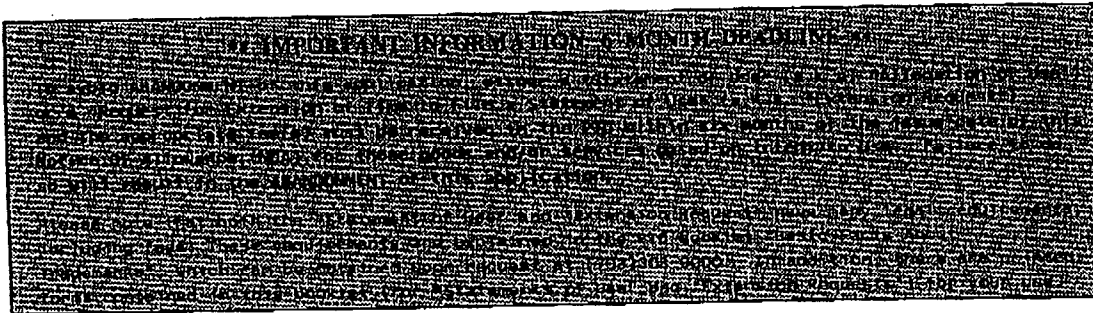
Date of Signing: December 21, 2001

U.S. Patent and Trademark Office (PTO)
NOTICE OF ALLOWANCE

(NOTE: If any data on this notice is incorrect, please submit a written request for correction of the NOA to: Assistant Commissioner for Trademarks, Box ITU, 2900 Crystal Drive, Arlington, VA 22202-3513. Please include the serial number of your application on ALL correspondence with the PTO. 15 U.S.C. 1063(b)(2))

ISSUE DATE OF NOA: Mar 13, 2001

MICHAEL J. O'LOUGHLIN
MICHAEL J. O'LOUGHLIN & ASSOCIATES, PA
1012 GRAIN EXCHANGE BUILDING
MINNEAPOLIS, MN 55415



The following information should be reviewed for accuracy:

SERIAL NUMBER: 75/904827
MARK: PAVERCAT
OWNER: Pave Tech, Inc.
15354 Flag Avenue
P.O. Box 576
Prior Lake, MINNESOTA 55372

This application has the following bases, but not necessarily for all listed goods/services:
Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

007-machines and machine parts used to aid in the installation of segmental pavers
ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED



Patent and Trademark Office

ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

Nov 17, 2000

NOTICE OF PUBLICATION UNDER 12(a)

- | | |
|--------------------------------------|----------------------------------|
| 1. Serial No.:
75/904,827 | 2. Mark:
PAVERCAT |
| 3. International Class(es):
7 | |
| 4. Publication Date:
Dec 19, 2000 | 5. Applicant:
Pave Tech, Inc. |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371854
Pittsburgh, PA 15250-7954
Phone: (202)512-1800

By direction of the Commissioner.

☐ AMENDMENT STAGE

☐ NO CHANGE☒ PUBLICATION/REGISTRATION STAGE

Name: Thuy Ta L.O. 114

Date

Serial No. 75/

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.

Legal Instrument Examiner (LIE)

Legal Information		Amended	Data Element
Class Data		<input type="checkbox"/> Prime/International Class	<input type="checkbox"/> Goods and Services
		<input type="checkbox"/> First Use Date	<input type="checkbox"/> First Use in Commerce Date
		<input type="checkbox"/> In Another Form	<input type="checkbox"/> Certification
		<input type="checkbox"/> 1b	
Mark Data		<input type="checkbox"/> Word Mark	<input type="checkbox"/> Pseudo Mark
		<input type="checkbox"/> Mark Drawing Code	<input type="checkbox"/> Design Search Code
		<input type="checkbox"/> Sizing/Lining Code	
Misc. Mark Data		<input type="checkbox"/> Mark Description	<input type="checkbox"/> Disclaimer
		<input type="checkbox"/> Lining/Stippling	<input type="checkbox"/> Name/Portrait/Consent
		<input type="checkbox"/> Translation	
Section 2(f)		<input type="checkbox"/> Section 2(f) Entire Mark	
		<input type="checkbox"/> Section 2(f) Limitation Statement	<input type="checkbox"/> Section 2(f) in Part
		<input type="checkbox"/> Amended Register	<input type="checkbox"/> Amended Register Date
Foreign Reg. Data		<input type="checkbox"/> Foreign Country	<input type="checkbox"/> 44(d)
		<input type="checkbox"/> Foreign Application Number	<input type="checkbox"/> Foreign Application Filing Date
		<input type="checkbox"/> Foreign Registration Number	<input type="checkbox"/> Foreign Registration Date
		<input type="checkbox"/> Foreign Registration Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Number
		<input type="checkbox"/> Foreign Reg. Renewal Expiration Date	<input type="checkbox"/> Foreign Renewal Reg. Date
Owner Data		<input type="checkbox"/> Owner Name	<input type="checkbox"/> DBA/AKA/TA
		<input type="checkbox"/> Address 1	<input type="checkbox"/> Address 2
		<input type="checkbox"/> City	<input type="checkbox"/> State
		<input type="checkbox"/> Zip Code	
		<input type="checkbox"/> Citizenship	<input type="checkbox"/> Entity
		<input type="checkbox"/> Entity Statement	<input type="checkbox"/> Composed of
		<input type="checkbox"/> Assignment(s)/Name Change	
Amd/Corr Restr.		<input type="checkbox"/> Concurrent Use	
Prior U.S. Reg.		<input type="checkbox"/> Prior Registration	
Correspondence		<input checked="" type="checkbox"/> Attorney	<input type="checkbox"/> Domestic Representative
		<input checked="" type="checkbox"/> Attorney Docket Number	
		<input checked="" type="checkbox"/> Correspondence Firm Name/Address	

I certify that all corrections have been entered in accordance with text editing guidelines.

LIE

DATE

Other:

☒ AMENDMENT STAGE ☐ NO CHANGE ☐ PUBLICATION/REGISTRATION STAGE

Name CASSAUNDR A ROBERTS LAW OFFICE 114 Date 9/28/0 Serial No. 75904827

INSTRUCTIONS: Place a check mark in the appropriate column and/or box to indicate which data elements have been amended/coded.		
Legal Instrument Examiner (LIE)		
	Amended	Data Element
Class Data	<input checked="" type="checkbox"/>	<input type="checkbox"/> Prime/International Class
		<input type="checkbox"/> Goods and Services
		<input type="checkbox"/> First Use Date
		<input type="checkbox"/> First Use in Commerce Date
		<input type="checkbox"/> In Another Form
		<input type="checkbox"/> Certification
		<input type="checkbox"/> 1b
Mark Data		<input type="checkbox"/> Word Mark
		<input type="checkbox"/> Pseudo-Mark
		<input type="checkbox"/> Mark Drawing Code
		<input type="checkbox"/> Design Search Code
		<input type="checkbox"/> Sizing/Lining Code
Misc. Mark Data		<input type="checkbox"/> Mark Description
		<input type="checkbox"/> Disclaimer
		<input type="checkbox"/> Lining/Stippling
		<input type="checkbox"/> Name/Portrait/Consent
		<input type="checkbox"/> Translation
Section 2(f)		<input type="checkbox"/> Section 2(f) Entire Mark
		<input type="checkbox"/> Section 2(f) Limitation Statement
		<input type="checkbox"/> Section 2(f) in Part
		<input type="checkbox"/> Amended Register
		<input type="checkbox"/> Amended Register Date
Foreign Reg. Data		<input type="checkbox"/> Foreign Country
		<input type="checkbox"/> 44(d)
		<input type="checkbox"/> Foreign Application Number
		<input type="checkbox"/> Foreign Application Filing Date
		<input type="checkbox"/> Foreign Registration Number
		<input type="checkbox"/> Foreign Registration Date
		<input type="checkbox"/> Foreign Registration Expiration Date
		<input type="checkbox"/> Foreign Renewal Reg. Number
		<input type="checkbox"/> Foreign Reg. Renewal Expiration Date
		<input type="checkbox"/> Foreign Renewal Reg. Date
Owner Data		<input type="checkbox"/> Owner Name
		<input type="checkbox"/> DBA/AKA/TA
		<input type="checkbox"/> Address 1
		<input type="checkbox"/> Address 2
		<input type="checkbox"/> City
		<input type="checkbox"/> State
		<input type="checkbox"/> Zip Code
	<input type="checkbox"/> Citizenship	
		<input type="checkbox"/> Entity
		<input type="checkbox"/> Entity Statement
		<input type="checkbox"/> Composed of
		<input type="checkbox"/> Assignment(s)/Name Change
Amd/Corr Restr.		<input type="checkbox"/> Concurrent Use
Prior U.S. Reg.		<input type="checkbox"/> Prior Registration
Correspondence		<input type="checkbox"/> Attorney
		<input type="checkbox"/> Domestic Representative
		<input type="checkbox"/> Attorney Docket Number
		<input type="checkbox"/> Correspondence Firm Name/Address
I certify that all corrections have been entered in accordance with text editing guidelines.		
Other: _____		
_____ LIE		
_____ 9/28/0		
_____ DATE		

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO. 75/904827 APPLICANT Pave Tech, Inc.		PAPER NO. 2A
MARK PAVERCAT		ADDRESS: Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 www.uspto.gov
ADDRESS MICHAEL J. O LOUGHLIN MICHAEL J. O LOUGHLIN & ASSOCIATES, P.A. 1012 GRAIN EXCHANGE BUILDING MINNEAPOLIS, MN 55415	ACTION NO. 02	If no fees are enclosed, the address should include the words "Fee Responses - No Fee." Please provide in all correspondence: 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code.
	MAILING DATE 09/27/00 REF. NO.	
FORM PTO-1028 (9-00) U.S. DEPT. OF COMM. PAT. & TM OFFICE		

EXAMINER'S AMENDMENT

Richard A. Straser	Michael J. O'Loughlin	(612) 332-0351
X	September 26, 2000	X

CALL RECORD/NOTES

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

RE: Serial Number 75/904827

In accordance with the authorization granted by the above Applicant or attorney, the application has been AMENDED as indicated below. No response is necessary unless there is an objection to the amendment.

Enter as the recital of goods: ^{Print} machines and machine parts used to aid in the installation of segmental pavers in International class 7.

Richard A. Straser
Richard A. Straser
Trademark Examining Attorney
Law Office 114
(703) 308-9114, extension 178

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 75/904827 Pava Tech, Inc.		APPLICANT	PAPER NO.
MARK PAVERCAT		ADDRESS MICHAEL J. O LOUGHLIN MICHAEL J. O LOUGHLIN & ASSOCIATES, P.A. 1012 GRAIN EXCHANGE BUILDING MINNEAPOLIS, MN 55415	ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513
ADDRESS MICHAEL J. O LOUGHLIN MICHAEL J. O LOUGHLIN & ASSOCIATES, P.A. 1012 GRAIN EXCHANGE BUILDING MINNEAPOLIS, MN 55415		ACTION NO. 01	If no fees are enclosed, the address should include the words "Box Responses - No Fee". Please provide in all correspondence: 1. Filing Date, serial number, mark and Applicant's name. 2. Mailing date of this action. 3. Examining Attorney's name and Law Office number. 4. Your telephone number and ZIP code.
		MAILING DATE 07/06/00	
FORM PTO-1528 (6-00)		REF. NO.	

PRIORITY ACTION

Richard A. Straser	Michael J. O'Loughlin	(612) 332-0351
X	June 30, 2000	X

CALL RECORD/NOTES

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

RE: Serial Number 75/904827

This case will be given priority as an amended case if Applicant or applicant's attorney responds to the requirements stated below within two months of the above mailing date. In any event, a proper response to this Priority Action must be received within SIX MONTHS from the mailing date stated above in order to avoid ABANDONMENT.

Applicant will address the following informalities in order to render the mark registrable on the Principal Register.

In the identification, the applicant must use the common commercial names for the goods, be as complete and specific as possible and avoid the use of indefinite words and phrases. If the applicant chooses to use indefinite terms, such as "accessories," "components," "devices," "equipment," "materials," "parts," "systems" and "products," then those words must be followed by the word "namely" and the goods listed by their common commercial names. TMEP sections 804 and 804.08(c).

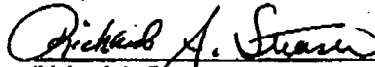
The identification of goods is unacceptable as indefinite. The applicant may adopt the following identification, if accurate: machines and machine parts used to aid in the installation of segmental pavers in International class 7. TMEP section 804.

Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. Section 2.71(a); TMEP section 804.09. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

PLEASE NOTE: All of the issues raised can be resolved by telephone. The applicant may telephone the examining attorney, instead of submitting a written response, to expedite the application.

Enclosed for applicant's information is a copy of earlier filed application no. 75-830492 which is not being cited as a possible bar to applicant's registration, but was discussed between counsel for applicant and the trademark examining attorney.



Richard A. Straser
Trademark Examining Attorney
Law Office 114,
(703) 308-9114, extension 178

TRAMII GENERAL QUERY AS OF: 06/22/00 17:49:04

SERIAL NUMBER: 75830492
REG. NUMBER: 0000000
REGISTER: PRINCIPAL
FILED USE: YES
FILED ITU: NO
FILED 44D: NO
FILED 44E: NO

FILING DATE: 11/12/1999
REG. DATE:
MARK TYPE: TRADEMARK
CURRENTLY USE: YES
CURRENTLY ITU: NO
CURRENTLY 44D: NO
CURRENTLY 44E: NO

!!!! THIS CASE HAS BEEN REPORTED AS LOST !!!!

EXMR LO: 114

EXAMINER: 61700-STRASER, RICHARD A
LO ASSIGNED: 114
LOCATION: 016-TM FEE PROCESSING
DATE IN LOC: 06/19/2000
CHRG TO LOC: NONE
CHRG TO: NONE
STATUS: 641 - NON-FINAL ACTION - MAILED
STATUS DATE: 03/08/2000
A/R EXAMINER: NO A/R EXAMINER ASSIGNED

PUB DATE:
SECTION 8: NO
RENEWAL FILED: NO
CLASSES ACTIVE: 02

DATE ABANDONED:
SECTION 15: NO
RENEWAL DATE:

DATE CANCELLED:
ASSIGNMENT: NO
DATE AMENDED REG:

MARK: CAT

CURRENT OWNER INFORMATION
PARTY TYPE: 10-ORIGINAL APPLICANT - FIRST NAME
NAME: Caterpillar Inc.
ADDRESS: 100 N.E. Adams St.
PEORIA ILLINOIS 61629
ENTITY: 03-CORPORATION
CITIZENSHIP: DELAWARE

GOODS AND SERVICES
FOR: compact wheel loaders; wheel loaders; integrated toolcarriers; telescopic handlers; track loaders; wheel tractor-scrapers; track-type tractors; wheel dozers; motor graders; soil compactors; cold planers; road reclaimers; asphalt pavers; vibratory compactors; marine engines; industrial engines; diesel generator sets; gas generator sets; demolition machines and scrap material handlers for use therewith namely blades, buckets, crushers, grapplers, hammers, hydraulic brooms, mobile shears, pallet forks, pulverizers, and rakes; log loaders; combines; pipelayers; mining shovels; waste handling machines; and parts for all the above
INT. CLASS 007 (U.S. CLASSES 013 019 021 023 031 034 AND 035)
FIRST USE 07/13/1988 USE IN COMMERCE 10/20/1988

FEB-23-2004 09:31
FEB-23-2004 09:15

L&L UNASSIGNED

312 674 4779

P.34/38
P.34

Serial Number: 75830492

Highway trucks; articulated trucks; truck engines; agricultural tractors; and parts for all the above
NT. CLASS 012 (U.S. CLASSES 019 021 023 031 035 AND 044)
FIRST USE 07/13/1988 USE IN COMMERCE 10/20/1988

MISCELLANEOUS INFORMATION / STATEMENTS

ION 2F: NO

SECTION 2F IN PART: NO

IER OF US REG NOS:

2140605 2140606

PROSECUTION HISTORY

FE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM	PRCD NUM
18/00	CNRT	F	NON-FINAL ACTION MAILED	002	000000
19/00	DOCK	D	ASSIGNED TO EXAMINER	001	061700

CORRESPONDENCE

ORNEY: NONE

ORNEY DOCKET NUMBER: NONE

RESPONDENCE ADDRESS: Caterpillar Inc.
100 N.E. Adams St.
Peoria IL 61629

OTHER INFORMATION

RK DRAWING CD: 3-AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/
LETTER(S)/NUMBER(S)

IGN SEARCH CDS: 26.05.21

TION 8 IN PART: NO

UB SEC 12C: NO

PUB DATE 12C:

ANGE IN REGISTRATION: NO

VB DECISION: NO

ST CASE: YES

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
APPLICATION FOR TRADEMARK REGISTRATION**

Mark: PAVERCAT

Class: 7 (International)

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

Pave Tech, Inc., a corporation of Minnesota, located and doing business at 15354 Flag Avenue, P.O. Box 576, Prior Lake, MN 55372, U.S.A., requests registration of the above-identified trademark, shown in the accompanying drawing, in the United States Patent and Trademark Office by the Act of July 5, 1946 (15 U. S. C. §§ 1051 et seq., as amended) for the following goods:

machines
(MECHANIZED EQUIPMENT) USED TO AID IN THE
INSTALLATION OF SEGMENTAL PAVERS

Applicant has a bona fide intention to use the mark in commerce on the above identified goods. (15 U.S. C. § 1051 (b), as amended). The intended manner or mode of use is to apply it directly to the goods by use of labels or as otherwise customary in the trade.

APPOINTMENT OF ATTORNEYS

Applicant hereby appoints the law firm of Michael J. O'Loughlin & Associates, P. A., including its principal attorney, Michael J. O'Loughlin, Registration No. 25,760, to transact all business in the United States Patent and Trademark Office in connection with this application and to receive the certificate of registration.

Please address all future correspondence related to the above-identified application to:

Michael J. O'Loughlin & Associates, P. A.
1012 Grain Exchange Building
Minneapolis, MN 55415
(612) 332-0351

DECLARATION

The undersigned declarant, Stephen Jones, in behalf of the applicant, states that declarant is President of the applicant corporation and is authorized to execute this declaration on behalf of said applicant, and believes said applicant to be entitled to use the mark sought to be registered in commerce; to the best of declarant's knowledge and belief, no other person, firm, corporation or association has the right to use said mark in commerce, either in identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; the undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or document or any registration resulting therefrom.

PAVE TECH, INC.

Date: December 9, 1999

By


Stephen Jones
Its President

MICHAEL J. O'LOUGHLIN & ASSOCIATES, P.A.
ATTORNEYS AT LAW
400 SOUTH 4th STREET
1012 GRAIN EXCHANGE BUILDING
MINNEAPOLIS, MINNESOTA 55415

332-0351
AREA CODE 612
FAX #(612) 342-2399

January 25, 2000

Assistant Commissioner for Trademarks
Box New App/Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Re: Application for Registration of PAVERCAT trademark in Class 7

Dear Sir:

Enclosed herewith are documents resubmitted in connection with an Intent to Use Application for Registration of the Sandlock trademark. The enclosures are:

- a. Application for Trademark Registration (including Power of Attorney)
- b. One sheet of drawing showing the mark to be registered
- c. Check payable to the order of the Commissioner in the amount of \$325 to cover the filing fee.

For your information, the application was originally submitted several days in advance of January 10, 2000. It was our belief that the application should have been on file before January 10th. Apparently that did not occur so the application was considered incomplete. Please call the above number if there are any questions or problems with the filing.

Yours very truly,

MICHAEL J. O'LOUGHLIN
& ASSOCIATES, P.A.


Michael J. O'Loughlin

MJO/jfb
Enclosure

FEB-23-2004 09:31
FEB-23-2004 09:16

L&L UNASSIGNED

312 674 4779 P.38/38
P.38

75904827

TRADEMARK APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

02/03/2000 SMMDSU 00000123 75904827

01 FC:361

325.00 TP

PTO-1555
(5/87)

TOTAL P.38
TOTAL P.38

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 2,684,138: PAVERCAT
Registered on the Principal Register on February 4, 2003, in International Class 7

CATERPILLAR INC.,)	
)	
Petitioner,)	
v.)	Cancellation No. 92041776
)	
PAVE TECH, INC.,)	
)	
Registrant.)	

**STEPHEN R. JONES, PRESIDENT AND CO-OWNER AND
F.R.C.P. 30(B)(6) WITNESS OF REGISTRANT
DEPOSITION EXHIBIT 4**

Show Daily

Official Newspaper of World of Concrete 2000

2nd
WORLD
CONCRETE

Wednesday/Thursday
February 23-24, 2000

Mega Demo features interlocking concrete pavers and blocks

By Kim Basham

At today's Mega Demo, you'll learn how to build sidewalks, patios, driveways, and earth retaining walls using interlocking concrete pavers and blocks. This full-scale demonstration takes place in Parking Lot D next to the outdoor exhibits and starts at 2:00 pm.

Westblock Systems, Inc. (Booth 9555) will start the demo by building a modular earth retaining wall using its GravityStone System. This wall system consists of concrete face, trunk and anchor blocks. Trunk blocks connect face and anchor blocks together to create a stable gravity retaining wall mass. Anchor blocks, just like the name implies, anchor the retaining wall to prevent outward movement and

overturning. Today, you'll learn how to build both single and multi-cell retaining walls, handle complex corners, install geosynthetic reinforcement, incorporate a planter into a wall, and properly install and compact fill material.



The Mammoth JM 200 vacuum slab-setting machine in a test quickly moves a standard 2x2-foot paving slab, which weighs up to 180 pounds.

For compacting the backfill material, workers will be using a hydraulic compactor mounted to a 160 LC John Deere excavator powered by a turbo-charged, 276-cubic-inch PowerTech[®] engine. This lightweight engine was designed to comply with today's tough EPA regulations yet develops 105 SAE net horsepower. This engine provides excellent lugging power and improved hydraulic response. With a 10-foot, 2-inch arm, this machine has a 30-foot maximum reach and a lifting capacity



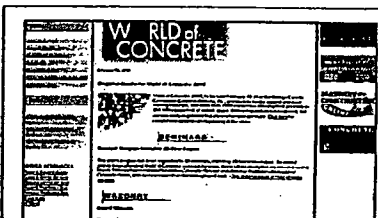
Bob Cramer (right) and Ronald Pohle of Pave Tech adjust the Paver Max VM 204, a mechanical paver-laying machine. The VM 204 can hold and place 400-450 pounds of pavers at one time. To the right is the Paver Cat, a multiple tool carrier loaded with concrete pavers.

exceeding 8,000 pounds.

Next, PaveTech (Booth 7877) will show how to place interlocking concrete pavers using state-of-the-art mechanical paver laying machines. Paving machines are designed to lay an entire area of pavers (approximately

10 square feet) at a time-improving speed and efficiency - ideal for large jobs. You'll also learn about cutting and installation tools, mechanical lifting, and cleaning equipment. Starting with layout, and addressing such top-

continued on page 85



See the WOC on the WWW

Recently redesigned, the World of Concrete web page (www.worldofconcrete.com) offers attendees and industry insiders complete information on the WOC any time, all year long. See the related story on page 6.

SKW-MBT details new construction chemicals group

The operations and structure of the SKW-MBT Construction Chemicals Group and its operating company, SKW-MBT Management, Inc. were presented Tuesday by Reini Rutz, president and CEO of SKW-MBT Management, Inc., and Dieter Pösch, member of the Board of Management of SKW Trostberg AG. The SKW-MBT Construction Chemicals Group is now home to the products and resources of five major players in the industry: ChemRex (Booth 3415), Master Builders (Booth 1361), Watson Bowman Acme (Booth 8375), Senergy and ORD Products.

"While the companies within the SKW-MBT family go to market through different channels of distribution and often sell to different customer groups - all of these companies are united under

the umbrella of SKW-MBT," Rutz said.

SKW Trostberg is a publicly quoted specialty chemicals company with 14,000 worldwide employees, organized into four Divisions: Nature Products, Chemicals, Performance Chemicals, and Construction Chemicals. The worldwide Construction Chemicals Division consists of 80 companies in 55 countries, with a global workforce of 6,500 employees. It achieved 1999 sales of DM \$2.9 billion and contributed 44 percent of the total SKW group sales of DM \$7.1 billion.

Formed at the beginning of the year, SKW-MBT Management, Inc. is the legal entity that oversees the SKW-MBT Construction Chemicals Group ac-

continued on page 85

Largest booth ever at the World of Concrete!

Encompassing 22,000 square feet is the booth of Putzmeister America Inc. (Booth 1901). It features many large boom pumps, along with several other company products. Read about two models of the company's boom pumps on pages 4 and 46. Also see page 10 for an article describing how Putzmeister pumps were used to pour a large concrete foundation last fall for a church training facility in Clearwater, Fla.



Photo by Jim Camillo

WOC 2000 Schedule

WEDNESDAY	THURSDAY
Buses 6:45 a.m.-6:00 p.m.	Buses 6:45 a.m.-2:30 p.m.
Attendee Registration 7:00 a.m.-5:00 p.m.	Attendee Registration 7:00 a.m.-Noon
Seminars 8:00 a.m.-11:00 a.m.	Seminars 8:00 a.m.-11:00 a.m.
All Exhibit Areas 9:30 a.m.-5:00 p.m.	All Exhibit Areas 9:30 a.m.-1:00 p.m.
Mega Demo 2:00 p.m.-3:00 p.m.	

PT 03354

What's Inside

Exhibitor Changes	5	Exhibitor List	18
Daily Schedule	5	Exhibit News	45
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Action Exhibits	11	Advertisers Index	84



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PT 03355

Exhibitor Changes

New Indoor Exhibitors

Bolt & Nut Inc.	9130
CDS Technologies	9032
The Cleveland Vibrator Co.	9048
Computer Environment Services	9150
concrete.com LLC	9036
constructionjournal.com	28
Corman Bag Co.	9152
Elliott Equipment Corp.	9563
Emulsion Spray Equipment	9460
Florida Chemical Supply	9760
Graco Inc.	9124
Grid Data	9463
Groeneveld Atlantic South Inc.	9651
Martin Hamlin	2893
Hardhat Systems LLC	9044
Hendrickson Truck Suspension	9131
J-KNIFE	9153
M-tec	9060
Masonry Online	9462
MIRACON Technologies	9562
Ohaus Corp.	9361
Plaspac USA Inc.	9148
The Plastiform Co.	9426
Powers Steel & Wire	9040
Ransom Equipment	9465
Right-Gard Corp.	9227
Rock Siding Co.	9051
Rollseal Inc.	9137
Scaffold Industry Association	9225

Updates

Show Stoppers

Company	Booth
B-Level Ltd.	9364
Big 'O' Inc.	667
Data-Maxx Software Systems	3891
Five Star Products Inc.	6853
GoldenLook Intl.	6347
Holdem Co.	4089
Juda Builders Inc.	1277
Nox-Crete Products Group	6640
Quick Imprint Systems Inc.	1091
Rice Lake Weighing Systems	9630
Sika Corp.	2535
Superior Walls of America	972
TMT Software	3873
Turbo Industries	9046
Vector Corrosion Technologies	6969
Waco Scaffolding	3115

Additional companies are listed on page 42.

Action Exhibits

Blastcat Equipment (Booth 19005)
MECO/Masterpiece Engineering is not in the Action Exhibits.
Sawtec (Booths 19011 and 19015)
Additional companies are listed on page 45.

Corporate Sponsors

Company	Booth
E-Z Grout Corp.	4392
Wacker Corp.	3643

Additional companies are listed on page 46.

Silt Saver Inc.	9750
Super Grip	9139
Surtreat Corp.	9133
Techno Fine	8786
Thermacell Technologies Inc.	7190
THL Diamond Products	9454
Tricon Precast Ltd.	9231
Turbo Industries Div Dreison	9046
Yukon Jackbucket Inc.	9662

New Outside Exhibitors

Powerscreen of Florida Inc.	13022
Spider Div SafeWorks LLC	10026
Wade Industries Inc.	17011

Booth Changes

- ARI-Hetra moved from 13022 to 8561.
- Armcon USA moved from 9017 to 9013.
- Axim Concrete Technologies moved from 9013 to 9017.
- Coating Technology moved from 9452 to 9229.
- Concrete Precast Systems moved from 9452 to 9233.
- Decon Inc. moved from 9245 to 9260.
- Global Decking Systems moved from 9042 to 9706.
- Grimmer Industries (was Hurricane Compressors) moved from 9706 to 9120.
- Heated Water Company moved from 9059 to 8593.
- Load-Lifter Inc. moved from 9461 to 9128.

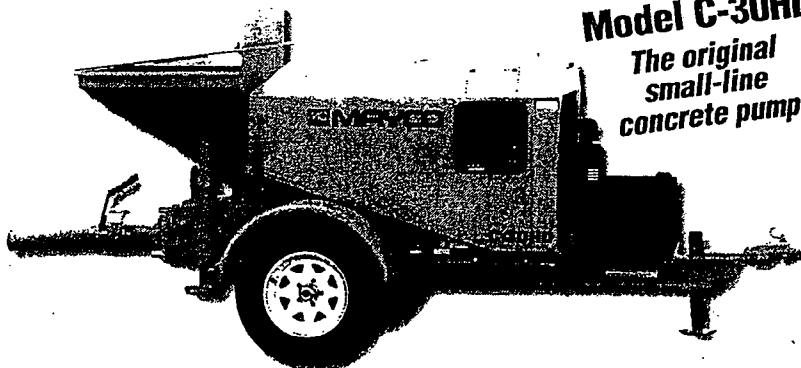
- Navistar International Trans moved from 14013 to 12022.
- Slipform Tool Co. moved from 9322 to 2891.
- T. L. Smith Machine moved from 8561 to 12039.
- Southern California Edison moved from 9040 to 7694.
- Tri-State Chemicals & Supply moved from 8786 to 275.
- Ytterberg Scientific Inc. moved from 3591 to 6873.

Corrections

- Sawtec is in booth 6243.
- Tamko Waterproofing Products is in booth 6683.

The full exhibitor list is on pages 18-42.

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Booth 2831



Believe it or not, the show floor is only open for one more full day (today) and one-half day (tomorrow). Which means most attendees will probably find themselves pressed for time to see all the interesting exhibits and products.

Putzmeister America (Booth 1901) introduces models 32X-150 and 22X-70 of the Enterprise Series of boom pumps. Both are designed for small to medium contractors. The 32X-150 has a vertical reach of 105 feet and a horizontal reach of 92 feet. The 22X-70 has a vertical reach of 71 feet and a horizontal reach of 59 feet.

According to **Crossfield Products Corp. (Booth 6472)**, its Miracote Micro-Topping can be applied to various surfaces to produce a decorative-concrete appearance that is flexible, abrasion-resistant, and easy to clean. The two-component product consists of a proprietary rubber-like liquid that is mixed at the time of application with a cement-aggregate blend. It is then applied at a thickness of $\frac{1}{8}$ inch by brush, trowel, squeegee, roller, or spray.

Mason-Dixon Technologies (Booth 9453) showcases the ThermaEZE system featuring insulated polystyrene panels that fit inside concrete wall forms—eliminating the need for conventional insulation—and provide an R-11.5 insulation value. The panels are connected with webs and secured in the forms with wall ties and wedges.

Making its first appearance at WOC—and in North America—is **BAMTEC (Booth 8595)**, a system that lets contractors reinforce concrete floors and suspended slabs with custom-made steel "layers" that unroll instead of using standard individual steel bars or steel mesh. The rolls are sized to be quickly unrolled by just two workers, according to the inventors. The system requires upper and lower reinforcement layers, each of which is formed by unrolling two rolls of material. Developed in Switzerland and southern Germany, the system also encompasses layer-reinforcement design and manufacture.

Stencil System's (Booth 7682) paper stencils reportedly are durable enough to use in both horizontal and vertical applications to create decorative concrete flatwork, steps, and walls. Other components of the company's decorative system are various color hardeners, release agents, and stains.

The **Curb Fox 2000** from **Messinger Inc. (Booth 1289)** features a Sauer-Sundstrand control system that provides accurate grade and alignment so it's easy to operate. Equipped with a 25-hp gas engine (diesel is optional), the compact and rugged machine can slipform sections up to 32 inches

wide and 18 inches high.

A new range of self-placing concrete products, called *Agilia*, is being showcased by **Lafarge Corp. (Booth 1383)**. These highly fluid products reportedly require little or no vibration and provide an attractive surface finish. Plus, they are adaptable to any concrete placing technique (pumping, chute, bucket, tremie, etc.) in either cast-in-place or precast operations.

Making the 'eye in the sky' concept a reality is **Techno Fine USA Inc. (Booth 8786)**, with its two-component Crane Camera System. It features an industrial-grade camera that mounts at the tip of the crane boom and is controlled by the cab operator with a few simple commands, and a 12-inch monitor placed in the cab that allows continual viewing of the load being lifted.

Kwik Kerb Edgemaster Inc. (Booth 1349) unveiled Allumagel—a polymer-resin-based gelcoat that actually emits light, rather than just reflecting light—at its Monday afternoon press conference. According to a spokesperson, the product can be

used as a coating on concrete curbs and other surfaces and comes in rigid, semi-rigid, and flexible forms.

Check out the **Model 2-20D** portable blast cleaning system from **Blastrac (Booth 6243)**, featuring a 8-54 dust collector and 30-hp motor. The unit's side-by-side blast wheels reportedly produce an even, 20-inch-wide cleaning path as it strips, cleans, and profiles concrete and steel surfaces.

Miracon Technologies Inc. (Booth 9562) says it can produce cellular concrete at densities from 30 to 145 pounds per cubic foot by replacing some normal or lightweight aggregate

continued on page 85

There's a new our "big



The New 46X from Putzmeister

Bigger. Stronger. Longer. The new 46X from Putzmeister has all the tools to be your next big star. Induction-hardened 5-inch delivery line in all sections. Weight at less than 80,000 pounds. And with a reach that outdistances the competition's 45 meter, the new 46X is the ideal pump for any mid-range big job.

In these competitive times, you need a lineup of heavy hitters for every concrete pumping application. From the versatile 42X to the large and powerful 55-meter, Putzmeister has a full roster of concrete boom pumps to cut any big job down to size. Welcome to the big leagues...with Putzmeister.

MODEL SERIES	42X-Meter	46-Meter	52Z-Meter	55-Meter
Boom Sections	4-Section	4-Section	5-Section	4-Section
Vehicle Reach	136' 10" (41.70m)	149' 3" (45.5m)	169' 7" (51.70m)	180' 0" (54.86m)
Horizontal Reach	124' 8" (38.00m)	137' 5" (41.9m)	157' 6" (48.00m)	167' 0" (50.90m)
Net Reach*	115' 10" (35.30m)	128' 1" (39.1m)	141' 7" (43.15m)	158' 9" (48.40m)
Reach Depth	96' 6" (29.41m)	112' 2" (34.3m)	124' 8" (38.00m)	135' 0" (41.15m)
Unfolding Height	32' 6" (9.90m)	39' 4" (12.0m)	37' 2" (10.10m)	48' 0" (14.63m)
Outrigger Spread-Front	26' 3" (8.00m)	26' 3" (8.00m)	33' 4" (10.15m)	34' 9" (10.60m)
Outrigger Spread-Rear	26' 3" (8.00m)	26' 3" (8.00m)	33' 4" (10.15m)	32' 9" (9.98m)

*Net reach is based on 100% extension of the boom.

World of Concrete 2000 daily show schedule

WEDNESDAY

FEBRUARY 23

Attendee Registration
7 a.m. to 5 p.m.

All Exhibit Areas
9:30 a.m. to 5 p.m.

Seminars
8 a.m. to 11 a.m.

23-53 Producing Durable Concrete

23-54 Troubleshooting Hardened Concrete

23-55 Troubleshooting Residential Flatwork

23-56 Concrete Mix Design, Part III: Air Entrained Concrete

23-57 Basics of Concrete Repair, Part II: Repair and Protection Methods

23-58 Basics and Repair of Post-Tensioned Concrete Structures

23-59 Understanding Masonry Mortars

23-60 Troubleshooting Masonry, Part I: Challenges of Water Resistance

23-61 Special Finishes for Concrete Floors on Ground

23-62 Getting the Most From Your Power Trowel

23-63 Roller Compacted Concrete Pavements

23-64 Coatings for Concrete Floors, Part I: Materials and Material Selection

23-65 Balancing Estimating, Job Costing and Accounting

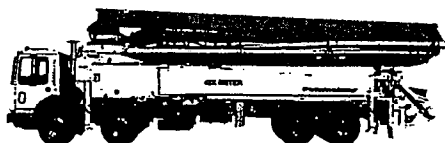
23-66 How to Turn Your Crew Into a High Performance Team

23-67 How to Find and Hire Top Talent

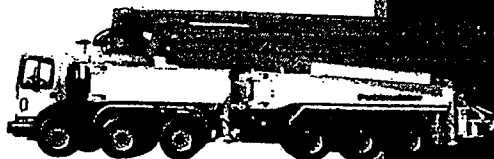
continued on page 8

player on league" roster.

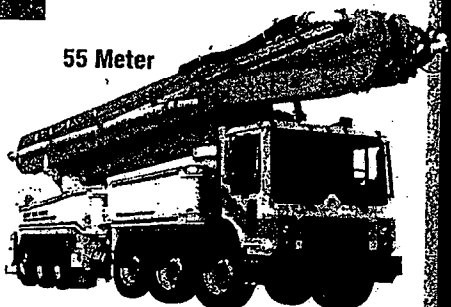
42X Meter



52Z Meter



55 Meter



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WOC 2000 spouse/ guest tour program

A World of Concrete Tour Desk for onsite ticket reservations is open every day starting at 8 a.m. in the Attendee Service Center of the Orange County Convention Center. Payment must be made in U.S. dollars. The Tour Desk also accepts MasterCard, Visa, Discover, and American Express Credit Cards.

All buses will depart from and return to the Orange County Convention Center. Please arrive at least 15 minutes prior to departure.

WEDNESDAY

FEBRUARY 23

Cypress Gardens Tour

10:30 a.m. to 4:00 p.m.

Code #9, \$51 adult; \$35 child (ages 3-11)

Floot the scenic waterways and stroll through amazing gardens of over 8,000 varieties of plants and flowers from more than 90 countries. See the legendary Cypress Gardens Water Ski Show. Be amazed at the "Wings of Wonder," a 5,500-square-foot, conservatory housing more than 1,000 free-flying butterflies.

Scenic Winter Water/Park Avenue Shopping Tour

10:15 a.m. to 4:00 p.m.

Code #10, \$26

Start with a bus ride to the quaint "Little Europe" shopping district and a relaxing 45-minute scenic open-air boat ride through historic Winter Park. See magnificent homes and gardens that line pristine bodies of water. Visit the Charles Hosmer Morse Museum of American Art featuring the largest collection of Louis C. Tiffany glass in the world, including the Tiffany-designed chapel created for the Chicago Exhibition of 1893. Visit exclusive boutiques.

Visit the World of Concrete on the World Wide Web

The annual World of Concrete Exposition lasts for just five days a year, but now you can visit the World of Concrete online anytime, all year long, at www.worldofconcrete.com. The completely redesigned Web site was launched last November, in time for this year's attendees to learn about the show, plan their visits, and even register online.

According to Ken Hooker, the site's editorial director, the redesign was focused on three goals: "We took the most useful features from

several existing Aberdeen Web sites, integrated them into a cleaner and more attractive design, and organized them to help users find what they're looking for quickly and easily. Above all, we set out to use the Web's capabilities to enhance the World of Concrete experience for attendees and exhibitors alike."

Complete show information

In the months leading up to WOC 2000, the site has featured complete information about the show, with an Overview area for basic and general

information, plus major sections that provide more detailed information for attendees and exhibitors.

The Seminars section provides "Seminars-at-a-Glance," which allows a user to scan the titles, speakers, times, and dates for all 83 seminars on a single screen, then click on any seminar title for a more complete description. Users also can search for seminars of interest by entering topic keywords, and/or specifying a particular date, speaker, or Master Certificate track.

The Travel and Lodging section

provides a complete list of the official WOC hotels, along with their locations, accommodation descriptions, and special show rates. It describes available discounts on airfares and car rentals. It also provides contact information, including e-mail links, for making travel arrangements and reservations.

A section on Mega Demos and Special Events describes demos, action exhibits, meetings, and training classes scheduled in conjunction with the show. It also offers information on spouse/guest tours and events, including a printable form to make reservations.

The Exhibitors List can help attendees plan their time at the show efficiently. They can browse an alphabetical listing of exhibitors and booth numbers or search the exhibitors database to find a particular company name, generate a list of companies that make a particular product or find the names of companies located in one of the pavilions on the show floor. Clicking on a company name leads to a page with contact information and a list of its products. While most information specific to the 2000 show will be removed from the site when the show ends, the Exhibitors List will remain accessible as a reference tool through the spring and summer.

Searchable databases

Besides its functions related to the World of Concrete Exposition, www.worldofconcrete.com contains a wealth of other information on concrete and masonry. One major resource is a complete archive of feature articles from The Aberdeen Group's magazines—*Concrete Construction*, *Masonry Construction*, and *The Concrete Producer*—as well as back issues of *Concrete Repair Digest* and *Construction Marketing Today*.

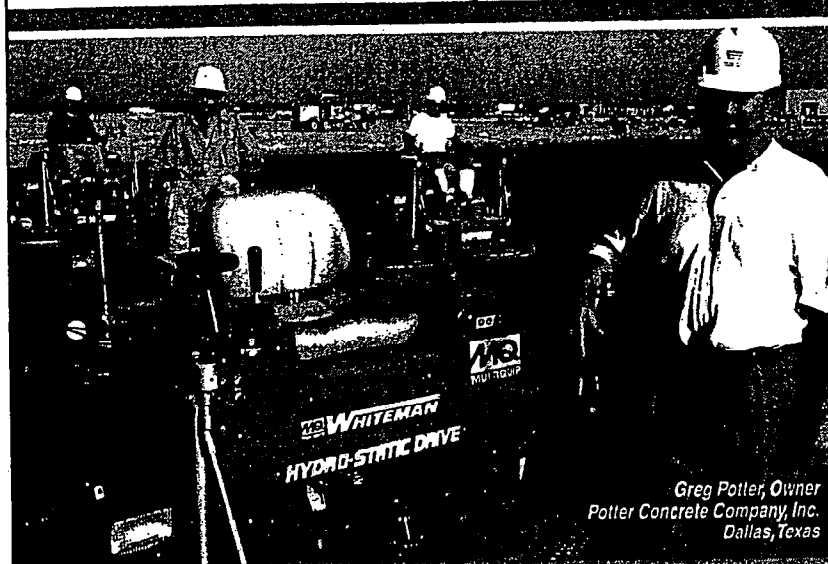
Visitors to the site can search any or all of the archives by entering keywords on topics of interest. They can also limit the search to articles by a particular author, or those published within a particular time frame. The search will return a list of articles that meet these parameters. Clicking on an article title pulls up an abstract that briefly describes the content of the article. From the abstract, a user can click to see the complete article and download or print it out if desired.

Visitors can also browse the article archives by selecting a particular magazine and year. This pulls up a list of articles published in each issue that year. Again, clicking on an article title takes you to the abstract and allows access to the full-text version.

The Problem Clinic is another searchable database on the Web site. It consists of thousands of ex-

continued on page 8

20
We own 12 Whiteman Hydrostatic Riders.



Greg Potter, Owner
Potter Concrete Company, Inc.
Dallas, Texas

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When placing concrete is your business, you need the highest quality, most reliable tools and machines. Only the best will do.

Greg Potter knows this very well. As owner of Potter Concrete Company in Dallas, Greg finishes millions of square feet of concrete every year. To keep up with this high volume of work, Greg relies on his talented team of finishers and his 20 Whiteman Hydrostatic Trowels.



Whiteman manufactures a wide variety of Ride-On Trowels — models are available for most any application. Call today for a free demonstration — 800-421-1244.

*Potter Concrete Company had 12 Whiteman Hydrostatic Trowels when we originally ran this ad in September 1999. Since then they've added eight more units!

www.multiquip.com

"We switched from the old-fashioned mechanical riders, and hydrostatic drive is the only way to go," says Greg.

Potter likes the user-friendly controls and easy operation of Whiteman Hydrostatic Riders. The hydraulic system eliminates prone-to-fail components such as belts, pulleys, clutches, and gearboxes. High F-numbers are easily achieved with fewer passes, for great productivity.

Experts like Greg Potter specify Whiteman Hydrostatic Riders. Write, call, or fax for more information.

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CONSTRUCTION
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PT 03360

DAILY SCHEDULE

continued from page 5

THURSDAY

FEBRUARY 24

Attendee Registration
7 a.m. to noon

All Exhibit Areas
9:30 a.m. to 1 p.m.

Seminars
8 a.m. to 11 a.m.

24-68 High Performance Concrete
With Specialty Admixtures

24-69 Troubleshooting Concrete
Cracks
24-70 Repairing Residential
Walls
24-71 Successful Use of Trouble-
shooting Techniques
24-72 Basics of Concrete Repair,
Part III: Structural Repairs
24-73 Shotcrete Repair
24-74 Scaffold Erection, Use and
Dismantling
24-75 Troubleshooting Masonry,
Part II: Accommodating
Movement in Masonry
Walls
24-76 Minimizing Floor Curling
and Shrinkage Problems

24-77 Solving Moisture-Related
Problems With Slabs-on-
Grade
24-78 How to Build Competitively
and Profitably With Insulat-
ed Concrete Forms (ICF's)
24-79 Coatings for Concrete
Floors, Part II: Surface
Preparation and Material
Application
24-80 People Management in Con-
struction
24-81 Construction Failures: How
to Identify, Prevent and Re-
solve
24-82 How to Motivate and Retain
Employees □

WOC.COM

continued from page 6

pert answers to real-life questions about concrete and masonry production, design, construction, and repair, all taken from the pages of Aberdeen magazines. Here again, visitors can search using keywords and limit the search by subject category, publication source, and date of original publication. The Problem Clinic also offers a browse option, in which items from the last five years are listed by subject category.

The third valuable database is the Buyers' Guide, which contains information on more than 2,700 companies that supply products and services for the concrete and masonry industries. Visitors can search the Buyers' Guide by company name and/or product type or trade name, and further limit the search by company location. The search then returns a result list with the names of the companies meeting the search criteria. Clicking on a company name brings up a page with contact information and a list of the company's products and trade names.

Online magazines

A brand new feature of the redesigned Web site is online versions of each of the magazines published by The Aberdeen Group division of Hanley-Wood, LLC: *Concrete Construction*, *Masonry Construction*, and *The Concrete Producer*. The online magazines feature the contents of the current print editions, along with links to related information both within and outside of www.worldofconcrete.com.

Each magazine area includes biographical sketches of editorial and sales staff members and e-mail links to contact them, plus information on upcoming articles, subscriptions, and advertising options. From within each online magazine, visitors can search or browse feature articles or problem clinic items from that publication's archives.

Useful links

Worldofconcrete.com also includes links to Aberdeen's online bookstore, where you can order books and merchandise 24 hours a day, seven days a week, and to Hanley-Wood's HBRnet site, where you can access a huge amount of information on residential design, construction, and remodeling.

See a demo

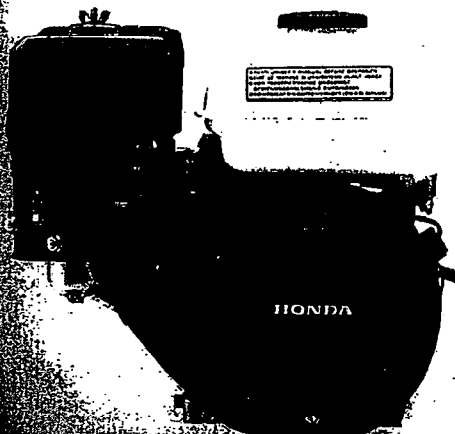
To see a demonstration of the new World of Concrete site, stop by The Aberdeen Group's corporate booth in the main lobby (Booth 4) anytime during the show. There will be staff members available to walk you through the site's major features and answer any questions you have.

Every day, our engines rise above the torture and abuse of the construction site to get the job done. No wonder so many people turn to Honda engines to keep their equipment running. Even when our good looks have faded away. For more information about our products, **HONDA ENGINES** call 1-800-426-7701 or visit us at www.honda.com. Power with a clear advantage.

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Booth 4783



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engineering precise auto levels

**GTS-210 and
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Construction layout made fast,
easy and accurate

LS-B3


Visual depth & grade control

RT-5S


High accuracy, auto aligning
dual-slope laser transmitter

3D-MC


Accurate, high speed three-
dimensional grade control

DT-100L


Digital transit with line-of-sight
laser beam


RL-HA

High-speed
self-leveling
laser for an
unbelievable
low price

Begin 21
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From the time you start the job until the last concrete is placed, Topcon gives you the control to make sure the job starts right and ends right. Whether you need a reliable, low cost level or high-accuracy three-dimensional grade control, only Topcon combines optical, laser, sonic and GPS technology under one name with one purpose in mind—giving you the most reliable, accurate survey-to-inspection positioning control in the world. See it all at World of Concrete. Booth 3425.

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Topcon America Corporation • 800-223-1130 • 201-261-9450 • www.topcon.com



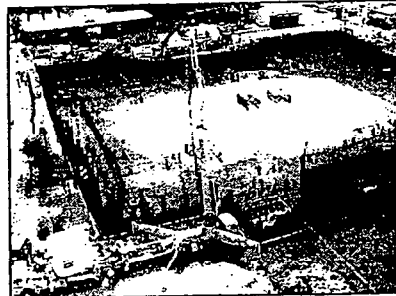
Putzmeister pumps set Clearwater pour record

It started at 4 a.m. and by 8 p.m. a record 8,605 cubic yards of concrete were poured for the mat foundation of a church training facility in downtown Clearwater, Fla. When completed in 2001, the seven-story Church of Scientology Ministerial Training and Pastoral Counseling Center will change the city's skyline.

The new 324,000-square-foot building is a huge undertaking. It has already required the help of several hundred workers for the first construction phase of the project, pouring the concrete mat foundation.

The 58,000-square-foot foundation was poured last fall and required four Putzmeister 52Z-Meter truck-mounted boom pumps, 130 ready-mix trucks and 900 tons of reinforcing steel.

The Putzmeister pumps were used because of severe space restrictions at the site. "A conveyor would have been great to use as far as output is concerned," said Desmond Knowles, sales representative for Pioneer Concrete Pumping, "but we needed 150 feet of horizontal reach for each pump."



The large concrete pour (more than 8,600 cubic yards) capped six months of planning, including color coding ready-mix trucks to match the four Putzmeister concrete pumps. A total of 260 ready-mix truck drivers participated—some from as far away as Georgia—and delivered the concrete in 16 hours, four less than planned.

The 52Z-Meter units gave us 156 feet."

Equipment performed flawlessly

Todd Collier, project superintendent with Beers Construction Co., the general contractor, said, "The 'Putzes' performed flawlessly. We finished the pour four hours ahead of our projected duration." He also credited the efforts of the concrete suppliers who got the mix to the site.

It was not only the biggest pour for the city of Clearwater but also a record-breaker for Pioneer. "It was absolutely one of our biggest one-time pours from a manpower perspective," said Knowles.

"We dedicated two mechanics—one each on site and in the shop—a service truck, a fuel truck, several water trucks as well as four operators, and two back-up operators for the four Putzmeister units, plus a back-up operator for another unit we had on reserve," he said. As it turned out, the backups weren't needed. "Everything went better than we could have imagined," he said.

Knowles credits Collier and Craig Muth, project manager, for their planning skills in orchestrating the event. "We met several times, charting regions on the plan, then color taping, marking and painting where each boom would reach. The ready-mix trucks were color-coded to go to the right pumps," he said.

Six months of planning

Collier noted that the big pour capped six months of intensive planning since ground was broken in February. "This was an extremely tight site," he said. "It covered a city block. Eighty percent was the building site and 20 percent was an environmentally controlled tree-save area."

"We had no staging on site and were building off the trucks because the foundation footprint runs from property line to property line on three sides," he said. "Another logistical restriction was the fire station located across the street. We had to keep that area clear for emergency-response calls."

Collier added that the restrictive

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Action Exhibits let you test and view equipment

Attendees can now test, ride, operate, and view in action many different types of equipment in The Action Exhibits area (formerly called Exhibitor Demos).

"The Action Exhibits concept lets more companies participate in this outside, hands-on format," says Beth Gassen, World of Concrete Show Director. "The concept began as an exhibitor demo area primarily with power trowels. It's been such an obvious success for the companies who participated that we decided to increase the space and change the criteria so that more exhibitors are able to reach prospects in this way."

The Action Exhibits are designed to help you learn how to operate any or all of these types of equipment. Don't worry about being a beginner; anyone can learn to handle these machines—and have fun at the same time.

Action Exhibits are unique to WOC. They serve a specific and important purpose: To let attendees "kick the tires" and fully examine the equipment in operation so they'll be able to choose the right equipment on their next job.

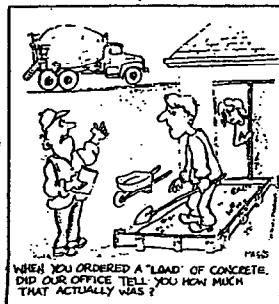
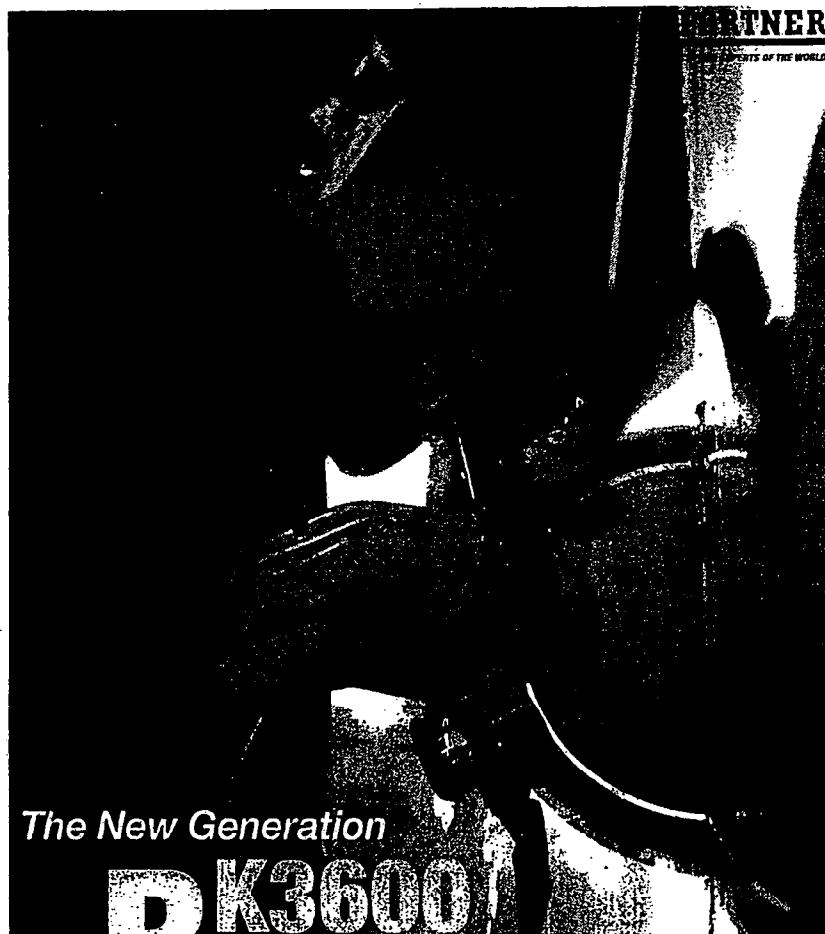
These exhibits will be operating during all show hours on all show days. Participating exhibitors as of January 14, 2000, are:

- Advance Concrete Tools (Booth 31014)
- Airtex USA Corp. (Booth 19003)
- Allen Engineering Corp. (Booths 31024 and 31030)
- American Pneumatic Tool (Booth 30006)
- Attachment Technologies (Booth 33032)
- Blastrac/Sawtec (Booths 19011 and 19015)
- Crown Construction Equipment (Booth 31020)
- Cushion Cut (Booth 30020)
- John Deere Commercial Worksite (Booth 32006)
- Diamond Products (Booths 20013 and 30032)
- Dolmar (Booth 20001)
- Joseph Due Blades & Equipment (Booth 20002)

- EDCO Equipment Development Co. (Booth 18007)
- Footlock Bracing Systems (Booth 17009)
- General Equipment Co. (Booth 18001)
- Hilti Inc. (Booth 18006)
- ICS Blount Inc. (Booth 20015)
- Innovatech Products & Equipment (Booths 18013 and 19018)
- JCB Inc. (Booth 32020)
- Lifetime Tool Co. (Booth 19000)
- MECO/Masterpiece Engineering

- (located in Booth 30024)
- Multi-Prep (Booth 18017)
- Multiquip Inc. (Booths 30028, 32034, and 33040)
- Partner Industrial Products (Booth 20007)
- Permaquik Corp. (Booth 31011)
- RGC Construction (Booth 20003)
- Sase Co. Inc. (Booth 18003)
- Stampcrete Intl. Ltd. (Booth 17013)
- Stanley Hydraulic Tools (Booth 20011)

- Star Diamond Tools Inc. (Booth 30018)
- Stone Construction Equipment Co. Inc. (Booth 32040)
- Superior Power Trowel Inc. (Booth 32045)
- Terex Bartell Ltd. (Booth 32041)
- Terry Industries (Booth 30012)
- VIC Intl. Corp. (Booth 19007)
- Weber Machine (USA) Inc. (Booth 33006)
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Getting the most from World of Concrete seminars

World of Concrete seminars provide valuable information to help you do your job better. To maximize your seminar experience, keep the following points in mind:

- **Why are you attending the seminar?** Before and during the seminar, keep in mind the reasons you chose to attend this session. What is the specific information you need? What are the questions that are coming up on the job or in the plant? If the seminar doesn't fulfill your information needs, prepare to ask questions.
- **Concentrate.** Don't let your mind wander. Important points might be made while your thoughts are elsewhere.
- **Take notes.** Information that might not seem relevant today might be helpful down the road. Review your notes when you return home.
- **Prioritize.** Draw a star or place a check mark in the margin where there is especially important information

you can use immediately.

- **Ask questions.** There is no such thing as a stupid question. Remember that others might be thinking the same questions or need clarification on a point.
- **Answer questions.** If you have a different solution than the speaker's, don't be afraid to share it. Others will appreciate your input and it will encourage them to help answer your questions.
- **Strike up a conversation.** Before the seminar starts, during breaks, and after the seminar ends, talk to people around you. If you have common interests, exchange phone numbers or business cards.
- **Fill out the evaluation form.** Make next year's seminar program even more helpful by giving speakers and planners your comments and suggestions for new seminar subjects. □

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A primer on masonry-metal integration

By Michael Chusid

The latest rage in dining is to combine two different cuisines: Italian pasta with Thai curry, for example. A similar trend in construction is the growing use of masonry walls with pre-engineered metal building systems. This mélange may seem strange at first. Masonry is as heavy as metal building systems are lightweight; masonry is installed one unit at a time while metal buildings are prefabricated for rapid jobsite assembly; masonry is rigid and metal is ductile. But learning to mix

the best qualities of each ingredient can produce a savory result and put masonry back on the menu of more building projects.

Metal buildings systems, for example, are one of the most economical ways to create wide-span structures that allow interiors to be laid out without regard for column locations. Metal roofs have improved considerably since the days of corrugated galvanized iron, and modern standing seam metal roofs now provide exceptional value and service life. While metal wall panels have

also improved in quality, they still can't match many of masonry's features. Metal panels maintain the economic advantage, but masonry walls remain the first choice of designers and builders for fire, sound, and impact resistance, security, durability, energy conservation, and aesthetic appeal.

Until recently, masonry and metal building contractors kept pretty much out of each other's kitchen except for an occasional wainscot or fire-separation wall. During the post-World War II era when the

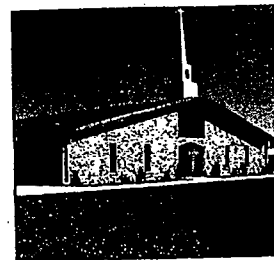


Photo courtesy of the MBMA

Architects have started using masonry with pre-engineered metal buildings on a variety of projects, including churches.

metal building industry developed, the industry was a direct challenge to masons because it offered a faster and cheaper way to build. Metal building also seemed an easier way to build; foreshadowing the current interest in design-build, metal building dealers provided building owners the convenience of one-stop shopping. The results have been impressive. According to the Metal Building Manufacturers Association (MBMA), metal building systems are now used for 69% of U.S. low-rise nonresidential buildings up to 150,000 square feet in size.

To increase its market share still further, the metal building industry has had to make its product more appealing to architects and owners by offering alternatives to the industry's traditional rectangular metal box. One consequence of this is that MBMA and the National Concrete Masonry Association (NCMA) have started cooperating to make it easier for their members to work together. Several metal building manufacturers have developed building systems specifically for use with masonry. Architects have started using a blend of masonry and metal for schools, churches, shopping centers, and an ever-wider variety of building types. Furthermore, masonry contractors who understand how system construction differs from conventional building have found that metal-building dealers can be customers as well as competitors.

Detailing the job

The differential movement characteristics of the two building systems must be considered first when designing or constructing a masonry-metal hybrid. The thermal expansion and contraction of steel is much greater than masonry and is of special concern in long-span structures. The ductile nature of steel allows pre-engineered metal buildings to deflect or "sway" in the wind and under the influence of earthquakes or other horizontal live loads. Masonry structures, on the other hand, can accommodate relatively little horizontal movement

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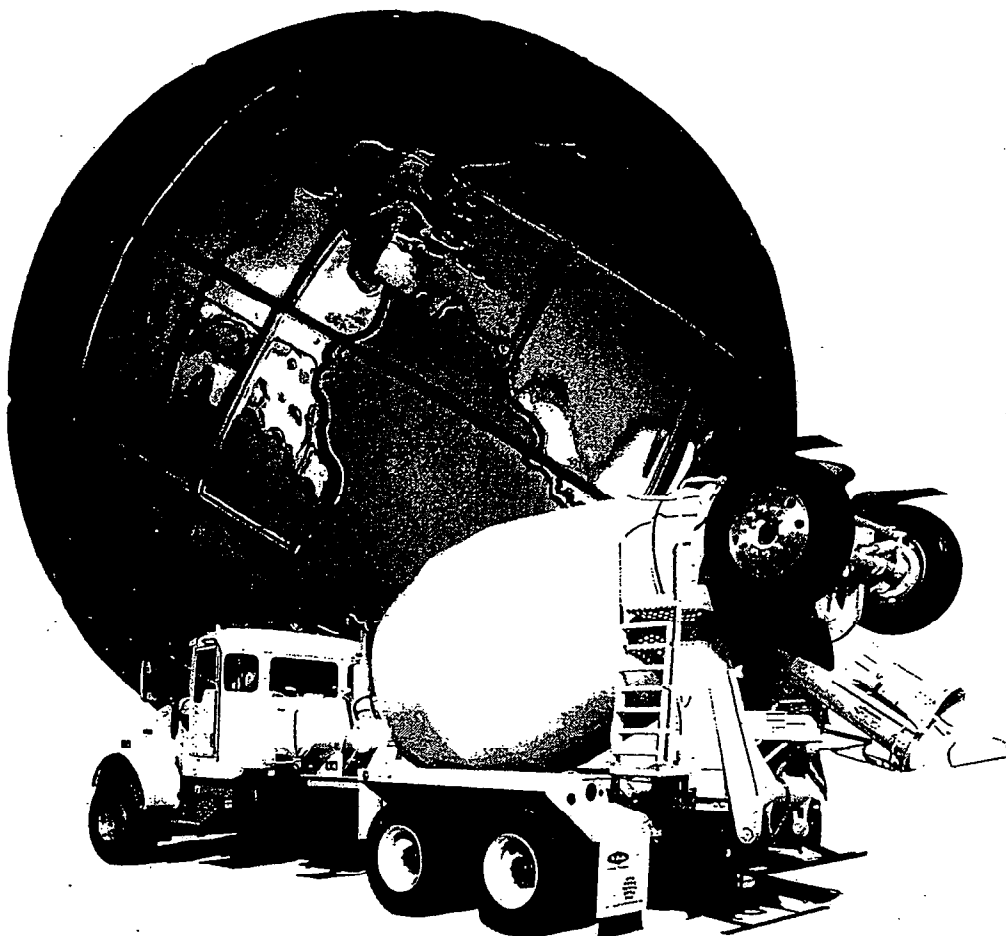
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MASONRY-METAL

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without cracking. Additionally, the shrinkage of concrete masonry and expansion of clay brick does not occur in a metal building and must be considered. The most practical way to accommodate these differential movements is through careful detailing of the masonry rather than by trying to restrain the metal frame.

Partial height masonry walls, or wainscots, are commonly used on metal buildings. Even when metal panels are used on the upper reach-

es of the wall, a masonry wainscot provides increased security and damage resistance at the base of the wall. The combination of the two materials also reduces the visual scale of a large building and improves its overall appearance.

The simplest way to construct a wainscot is as a free-standing cantilevered wall. A cantilevered wall must be built without structural connections to the metal building frame and located far enough from the building frame to accommodate any anticipated deflection.

While a structurally independent wall may be simplest, it is not necessarily the most efficient method.

Part of the economy of a metal building is that all its components work together to form an integrated structural system. To optimize the masonry-metal hybrid, it may be wise to look at ways to integrate the two different materials.

As an alternative to a cantilever, which may require heavy reinforcement and a large foundation, a wainscot can also be designed to span horizontally between a metal building's columns, vertically between the ground and a girt (a horizontal wall framing member), or vertically between the ground and a beam constructed in the top course of the masonry and spanning be-

tween metal building columns. These approaches allow the masonry wall to transfer some of the horizontal loads on the wall into the building frame.

A further option to explore is designing the wainscot as a horizontal beam. This could allow the masonry wall to bear on the large footings built under the metal building's rigid frames and eliminate the cost of continuous footings.

Another way to integrate masonry and metal is to use the masonry walls as bearing walls to carry the roof loads at the building perimeter. This is not always practical, however, since the metal building is typically erected before the masonry.

Regardless, a full-height masonry wall must generally be structurally anchored to the metal building frame so that horizontal loads perpendicular to the wall can be transferred through the metal building frame into the ground and the structural diaphragm in the plane of the roof. This requires that the wall be able to move with the deflection of the metal building frame. To do this without excessively cracking the masonry, the wall must generally be reinforced, and a hinge or pivot can be created at the base of the wall to control the location of horizontal cracks that occur due to deflection.

Typically, this hinge is built by placing a continuous flashing at the base of the wall as a bond breaker. Any vertical reinforcement or dowels running through the bond breaker should be sized only for horizontal shear and not for vertical continuity between the wall and its foundation.

Horizontal loads within the plane of a wall are a different story. Metal buildings typically rely on diagonal steel cross-bracing to prevent their rigid frames from toppling over. A masonry shear wall can serve the same function. In addition to cross-bracing, steel frames are typically tied together and braced with an eave strut at the top of the wall and intermediate horizontal wall beams or girts. In some instances, it may be possible to eliminate the girts and use the masonry wall to brace the frames. In other instances, the girts will be used in conjunction with vertical reinforcing to shorten the span of a masonry wall. The best approach to bracing the frames depends on the erection sequence of the wall and the overall economy of the various construction alternatives. Close attention must also be paid to the design and location of anchors between the wall and the framing members.

Masonry walls are often extended above the roof line of a building to form parapets. Parapets provide designers with alternatives to the low-slope roof line most commonly used in metal buildings and help conceal rooftop equipment. When a parapet

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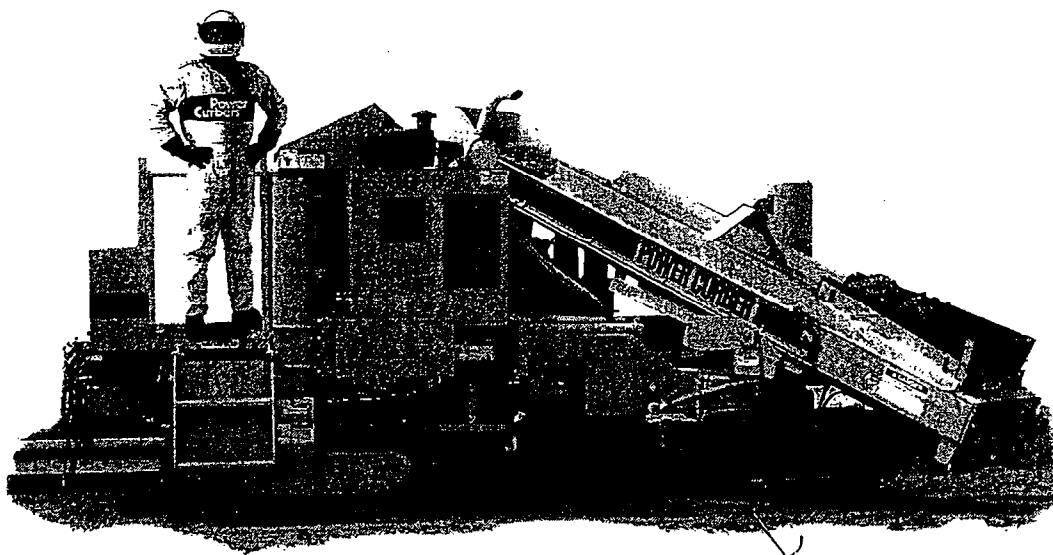
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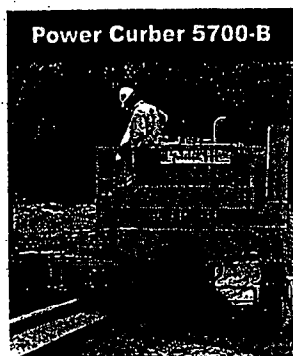
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FROM A LEGEND. AFTER ALL, CLASS PAYE IS MORE THAN A SLOGAN. IT'S A FACT.

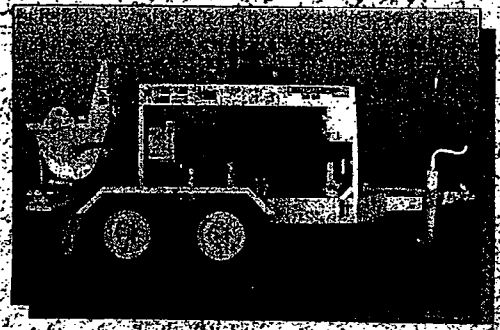
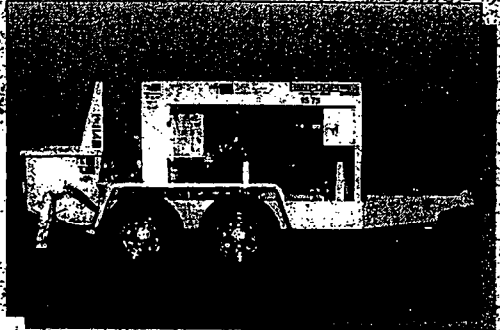
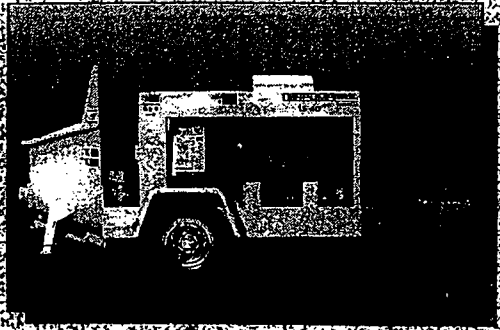
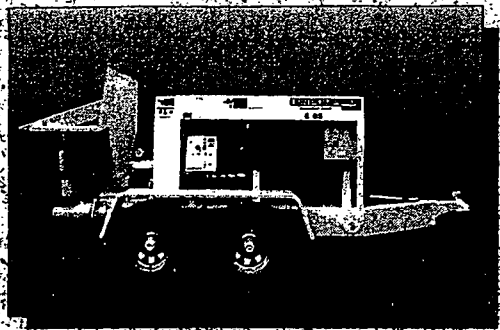
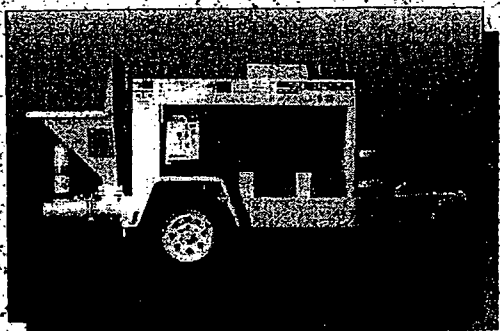
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Booth 3231

continued on page 23

PT 03371



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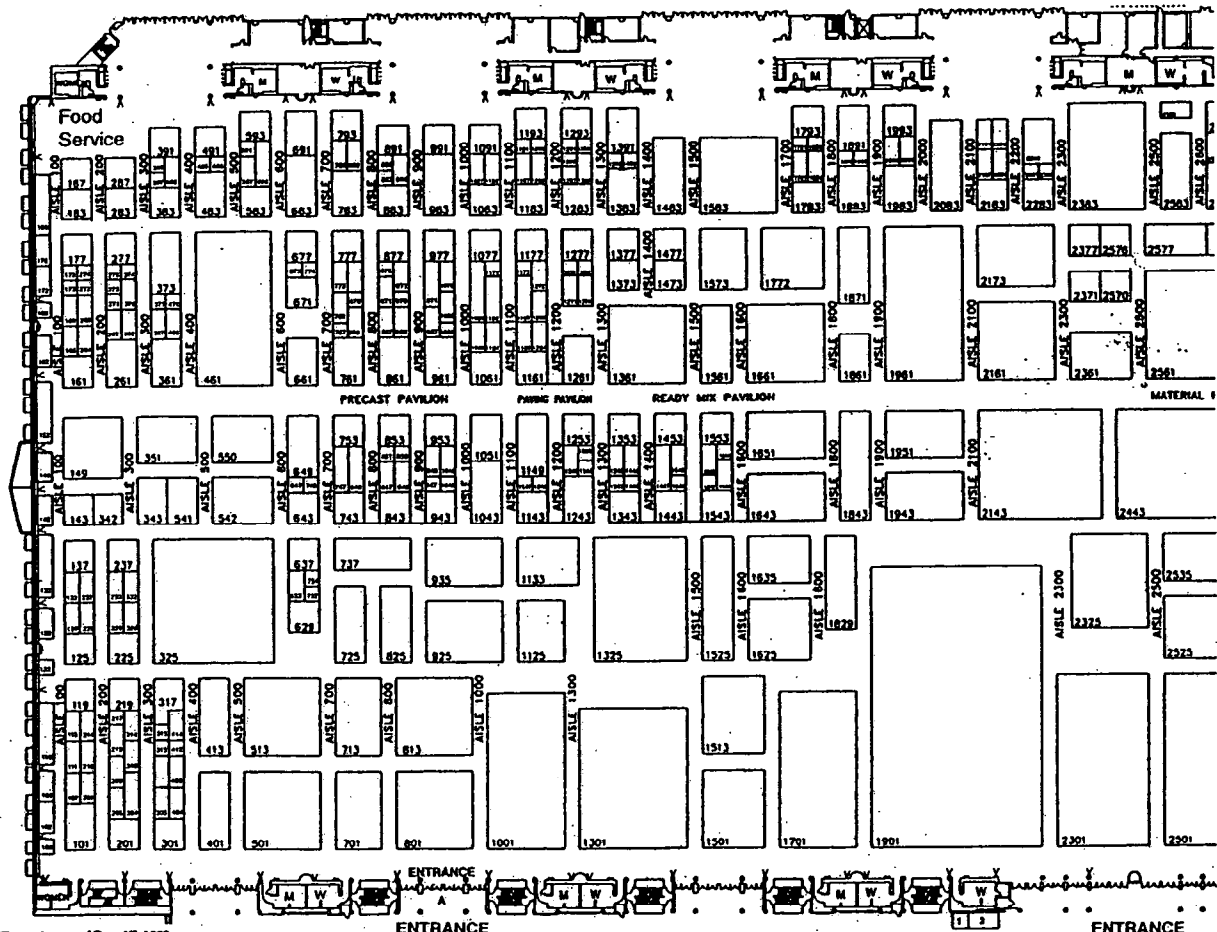
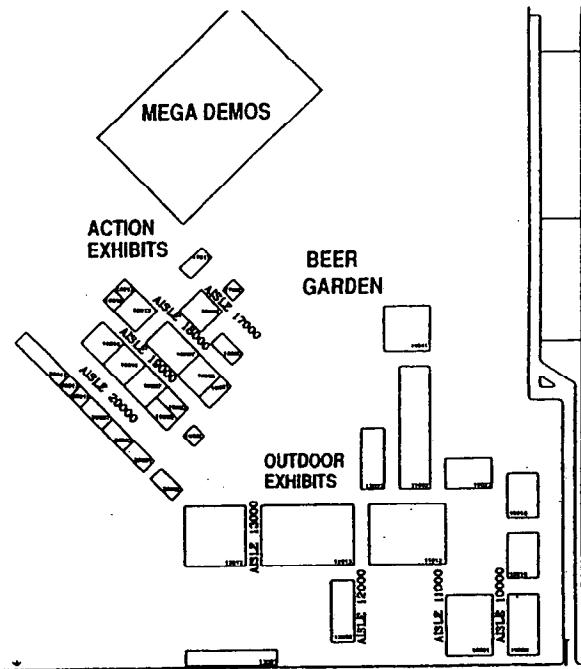
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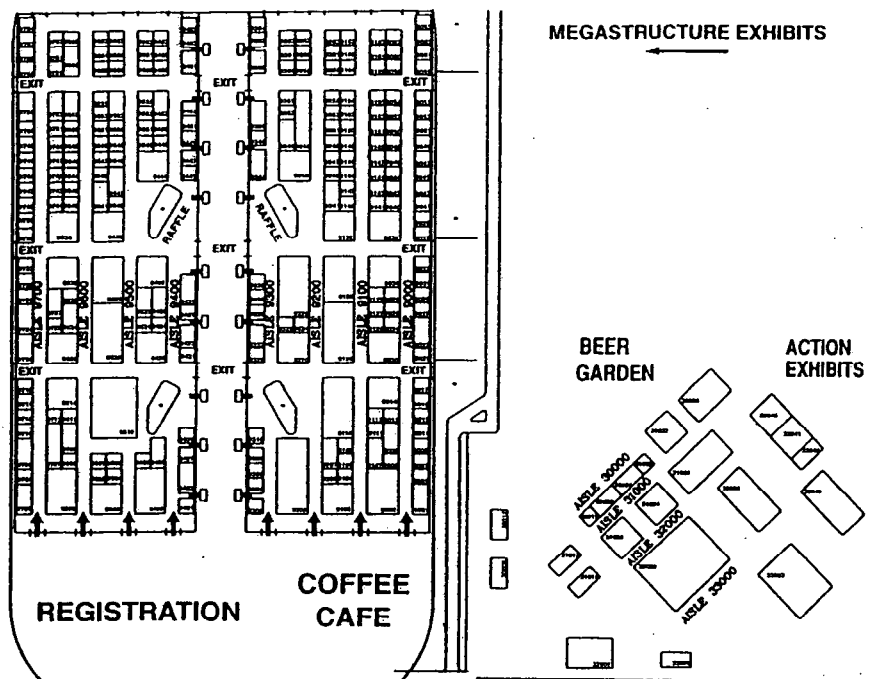
**World Of Concrete 2000
See Us at BOOTH #2873**

WORLD of CONCRETE

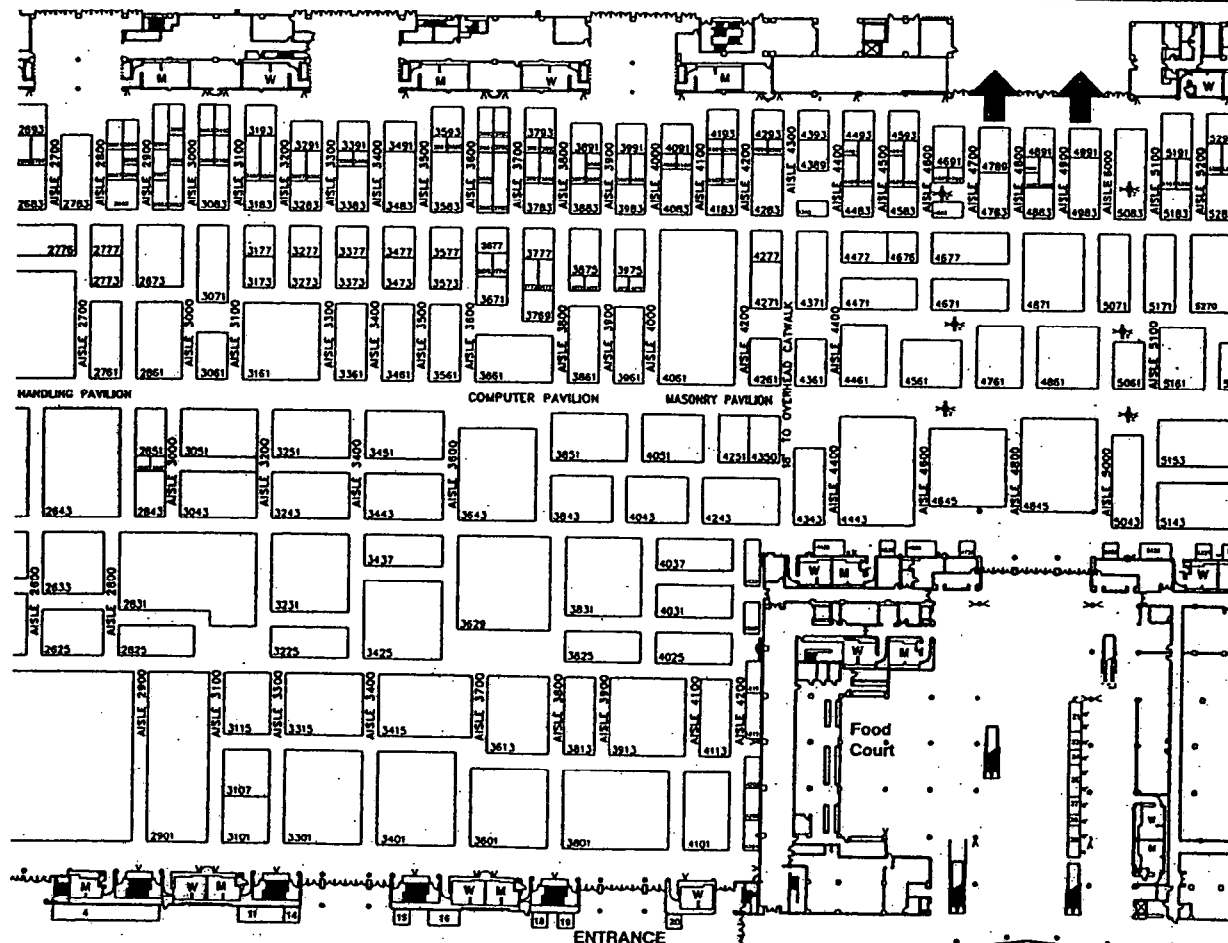
Lobby Exhibits
Booths 1-29
Exhibit Halls
Booth Series 100 - 8800
Megastructure Exhibits
Booth Series 9000 - 9900
Outdoor Areas
Booth Series 10,000 - 34,000
Mega Demos, Action Exhibits and more



Floorplan as of Dec. 17, 1999

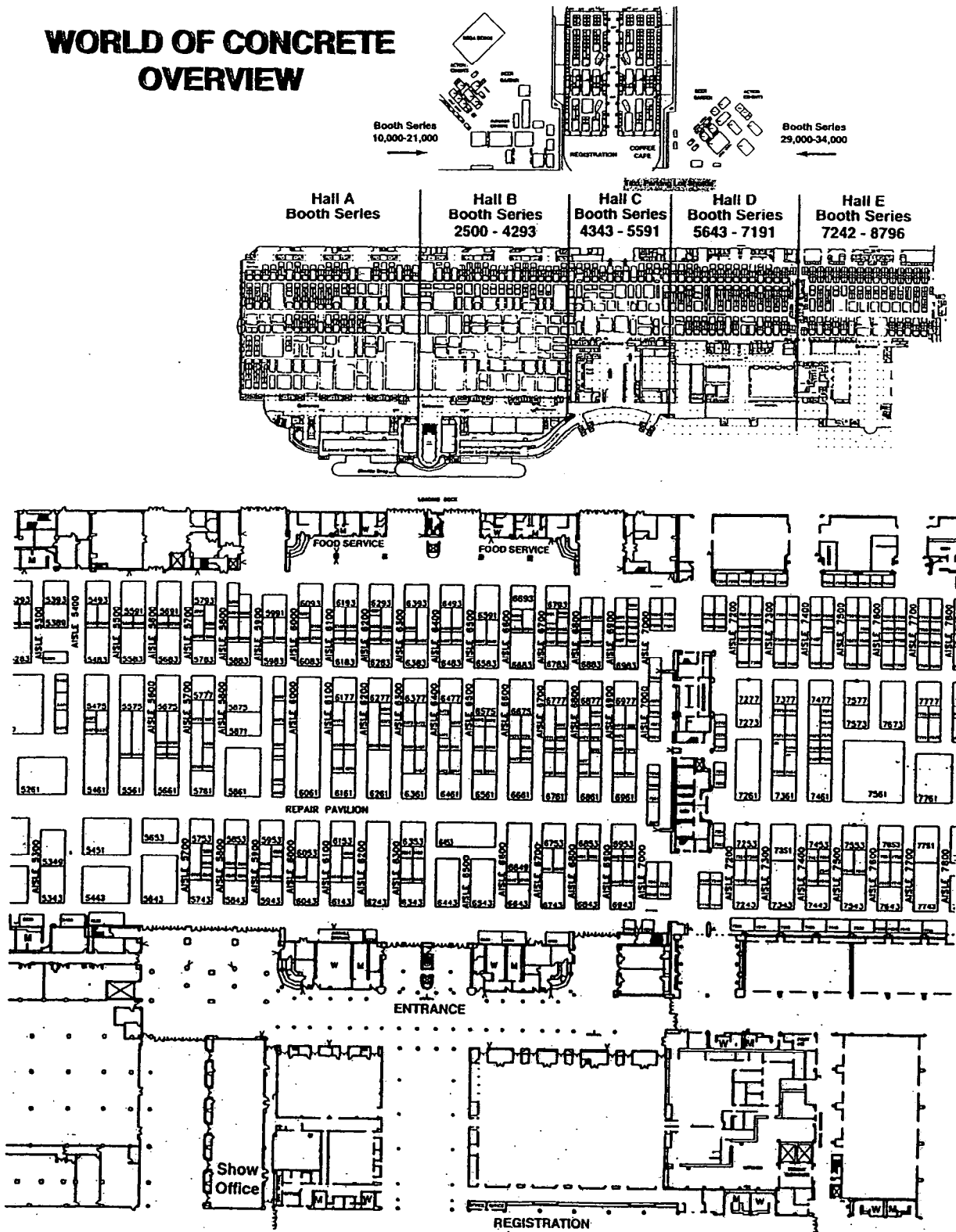


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OUTDOOR ACTION
MEGASTRUCTURE
EXHIBITS
Booth Series 9000-9800

**WORLD OF CONCRETE
OVERVIEW**



EXHIBITORS

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Archer Diamond & Abrasive Products	8347
Ardex Inc	6561
Ardisam Inc	9011
Argonics Inc	7387
Ariens Co	9403
Arkon Safety Equipment Inc	7582
Armcon USA	9017
Armorstone Inc	9725
Amco	7189
Arrow Magnolia International	1161
The Art Glittering System Inc	9714
Artcrete Inc	6293
aSa Applied Systems Associates Inc	3082
Associated Construction Distributors International	468
AST Corp	6891
ASTC Polymers	5891
Atlantic Equipment & Surplus Inc/Jim Tyson Inc	5949
Atlantic Pacific Equipment Inc (AT-PAC Inc)	7875
Atlas Copco Berema Inc	5661
Atlas Copco Compressors Inc	4871
Atlas Minerals & Chemicals Inc	1175
Atlas Systems Inc	6062
Attachment Technologies Inc	1891
Augusts Ltd	9360
Aurand Mfg & Equipment Co	8588

Avant-Garde Engineering (1994) Inc	4061
Avanti International	5773
Axim Concrete Technologies Inc	9013
Axon North America	7391
Aztec Concrete Accessories Inc	4991

B

Badger Meter Inc	1549
BAMTEC	8595
Bar-Lock Coupler Systems	6377
Barrier West LLC	3192
Barsplice Products Inc	6749
Bartlett Services Inc	6977
Battery-Tech Inc	9033
Ted Baugh Flooring Inc	8471
Baustoffwerk Rudolph	8473
Beijing Gang Yan Diamond Products Inc	6587
Bekaert Corp	1783
Benner-Nawman Inc	4583
Bering Truck Corp	1583
Besser Appco Div	1373
Beta Max Inc	7890
Betco Scaffold	5591
BFK Technologies	8551
BIBKO Inc	177
Bid-Well Div CMI Corp	1701
Bidco Sealants & Bidco Fibre Inc	1546
Big O Inc	6667
Bigequip.com Inc	8653
Bil-Jax Inc	2525

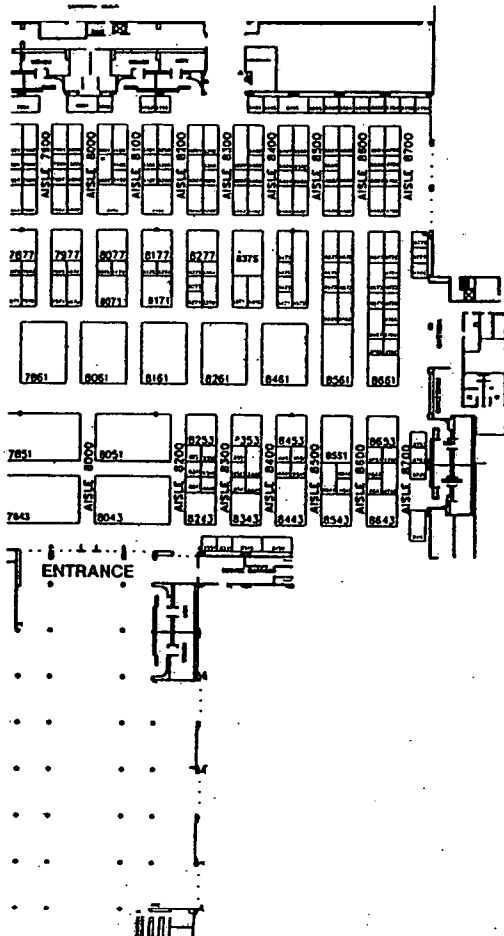
The Bilco Co	7346
Bio-Form	851
Birmingham Fastener Mfg	9738
BlastCat Surface Preparation Equipment	6177
Blastrac	6243
Blazer Diamond Products Inc	6461
Block Joist Co LLC	8194
Blok-Lok Ltd	9037
Blome Cements Co	6964
BloodGood Plan Service	7986
The Blue Book of Building & Construction	6373
Blue Circle Cement Inc	3577
BMH Systems	8382
BMI Tools	7386
Boccia Inc	7395
BOMAG Light Equipment Div	801
BoMetals Inc	229
Bon Tool Co	5538
Bonsal Commercial Products	5943
Boral Material Technologies Inc	1483
Borderline Stamp USA	1147
Bore Repair Systems Inc	8764
Bortech Corp	8547
Bosch/S-B Power Tool Co	5871
Bostik Inc	6661
BREN Instruments	9006
Brentwood Industries Inc	309
Briggs & Stratton Corp	6053
Buffalo Imprints	9106
Bull Dog Power Products	8491
Bullard Abrasives Inc	9141
Bunyan Industries	3283
Burgess Pigment Co	9445
Burke by Edco	3083
Butterfield Color	8687
BW Mfg Inc	7283

C

C & D Recycler Magazine	27
C & W Mfg & Sales Co	1391
CADS-USA Inc	7691
Cal-Rainbow Products Inc	7974
Cal-Tech Testing Inc	9450
Calculated Industries Inc	5787
Caliber Construction Ltd	9732
Can American Stone Spreader	12003
Capital Services	6777
Cardinal Scale Mfg Co	7440
CareLift Equipment Ltd	9110
Cargill Steel & Wire	677
CARGOTEC Inc	1871
Carlisle Coatings & Waterproofing Inc	5761
CARMIX/METALGALANTE Srl	9707
Carnie Enterprises Inc	7550
Carthage Mills	8569
Case	2643
The Catalog Group/Western Press Inc	217
Caterpillar Inc	1001
CCB Equipment Co	10000
CEILCOTE	7975
Cellular Concrete LLC	9458
Cemen Tech Inc	3843
CEMPORCE	8339
CertainTeed Form-A-Drain	2887
CES Wireless Technologies	3792
CETCO	4487
CGW Abrasives Mfg USA	9140
Chalmers Suspension International Inc	8582
Champion Elevators Inc	9600
A B Chance Co (Hubbell Power Systems)	6147
Chapin Mfg Inc	4213
ChemCo Systems Inc	7063
ChemGrouit Inc	5853
Chemipren USA	9224
ChemMasters Inc	6471

Chemprobe Technologies Inc	7050
ChemRex Inc	3415
Chemtron Polymers Inc	9310
Chicago Pneumatic Tool Co Construction Div	4043
CHUTES International	8686
CIFA USA Inc	2561
CIM Industries Inc	3089
Cimline Inc	5575
Cintec America Inc	7451
Clean Burn Inc	3088
CleanAIR Systems Inc	7482
Cleform Tool Co	6643
CMD Group	3783
CMI Corp	1701
CMI Johnson-Ross Corp	1701
CMS Inc	9527
CNA Commercial Insurance	1264
Coalition for Quality Concrete Flatwork	19
Coastal Mfg Inc	9008
Coating Technology	9452
Cobblecrete International Inc	342
Cobra Anchors Co Ltd	7989
Colbond Inc (formerly Akzo Nobel Geosynthetics)	5777
Coleman Cable Systems	8649
Coleman Engineering Inc	5289
Collins Companies	8451
Colorama Ad Products Inc	7782
Columbia Machine Inc	9636
Columbian Concrete Fiber	367
COMBIFORM	9300
Command Data Inc	3861
Compact Technologies an OmniQuip Co	3043
CompAir LeROI	8543
Composite One (Cem-Fil)	8766
Composite Technologies Corp	847
Con-Rec Technologies Inc	387
CON/STEEL Tilt-Up Systems	967
Concreface International Co Ltd	8386
Concor Systems/Magnum Fibers Div Geomaterials	9736
Concrete Accessories Inc (CONAC)	753
The Concrete Edge Co	9021
Concrete Equipment Co Inc (CON-E-CO)	1829
Concrete Formwork International	9753
Concrete Foundations Association	637
Concrete Impressions Div Precast Concrete Tech Inc	844
Concrete Precast Systems	9452
Concrete Raising of America	6950
Concrete Reinforcing Steel Institute	732
Concrete Sawing & Drilling Association	4072
Concrete Sealants Inc	5872
Concrete Solutions Inc	6246
Conesco Industries Ltd	149
Conjet AB	6493
ConLoc GmbH	9005
Connecticut Steel Corp	872
Conproco Corp	7088
Conspec Marketing & Mfg Co Inc	5461
Construction Pan-Americana	3685
Construction Attachments Inc	7243
Construction Data Control Inc	5470
Construction Data Corp	8646
Construction Electrical Products	7038
Construction Enterprises Inc	3092
Construction Equipment Magazine	2
Construction Forms Inc	2825
Construction Technology Labs Inc	7640
The Construction-Zone	4207
Constructivision	3886
Continental Power Tools Inc	9427
Contractors Hot Line Publications	3048
Control Solutions Ltd	3675

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EXHIBITORS

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Conveyor Components Co/

Cotterman Co	9700
Cook Tool Co Inc	7790
Cooper Floor Services Inc	6565
Coote Engineering Ltd	871
Corporate Sportswear	7971
Cortec Corp	6369
Cosella-Dorken Products Inc	5986
COTE-L Industries Inc	9409
Cover-All Building Systems	391
Covercrete Canada Ltd	7686
Covina	4591
Cox North America	5864
Crafco Inc	5953
Crain Enterprises Inc	8496
Cranes & Equipment Corp	3361

Cranes & Equipment Corp	3561
Crank-Up Scaffolding	9614
Crawford Laboratories Inc	5850
Cresset Chemical Co	747
CROMA North America	9014
Crossfield Products Corp	6472
Crown Construction Equipment	5793
Crown Metro Industries	6789
CRS Equipment/MEP SpA	3583
Crusader Mfg Inc	7688
Cryotech Deicing Technology	7272
CST Corp/Berger Instruments	5343
CTI Inc	1193
CTS Cement Mfg Co	5471
Cummins Engine Co Inc	3491
Curb Tec	1374
Curecrete Distribution	3973
Cushion Cut	
Div Boart Longyear Co	2625

Custom Building Products	4677
Custom Polymer Solutions	7190
CXI Div JRB Co Inc	8443
Cygnus Construction Equipment	
Owners Group	25
Czar-Weld Tools Inc	1448

D

Daewoo Heavy Industries	
America Corp	2783
DaimlerChrysler Capital	
Services (debris)	7568
Data-Max Software Systems Inc	3891
Davis Colors-Colors For Concrete	1473
Dayton/Richmond	5153
DBI/SALA	683
Don De Cristo Concrete Accessories	129
Decon Inc	9245

Decorative Concrete Supply	9542
Dee Concrete Accessories Co	
Div Tesko Enterprises	1543
Deep South Crane & Rigging	8340
John Deere Commercial Worksite	1951
John Deere Construction	
Equipment Co	1961
Deere Power Systems	1861
Delta Consolidated	
Industries Inc	101
DeNeef Construction	
Chemicals Inc	6353
Dennis Chemical Co	9009
Dependable Chemical Co Inc	6871
Desco Mfg Co Inc	6583
Design-Build Institute of America	9125
Design-Build Magazine	
McGraw-Hill Construction Info	162
Deslauriers Inc	7990
DEUTZ Corp	3173
Devco Paint/	
Fuller O'Brien Paints	9406
DeWalt Industrial Tool Co	237
Diamond B Inc	483
Diamond Back	
Diamond Blades Inc	6393
Diamond Blade Warehouse	6575
Diamond Products	4101
Diamond Productions	
Canada Ltd	7039
Diamond Systems Inc	6477
Dianamic Abrasive Products	7350
DICA Marketing Co	9759
Diedrich Technologies Inc	3389
Digital Insight	
Software Co LLC	8346
Dimas Industries Inc	6261
Dinet/Distributed Networks Inc	1446
Direct Safety Co	7464
Disco Corp	6788
Disco-SEA America Inc	6788
Diversified Capital Credit Corp	8489
Dixie Diamond Mfg Inc	3573
Dodge Commercial Program	
Headquarters	2173
Donnelly Fabricators Inc	6287
Double Agent Inc	275
Double Lock Clamp Co Inc	9326
Dow Chemical Co	1083
Dow Corning Corp	283
Dreyer Vibrator Co Inc	647
DTN Weather Center	
Contractor Dayta	3872
Duckback Products Inc	9247
Joseph Due Blades & Equipment	9758
Dumond Chemicals Inc	6970
Dunlop Mastclimbers LLC	9430
Dunrite Vibrator Ltd	9451
DuPont Co Industrial	
Coatings Div	1548
DuPont Flooring Systems	9241
Dur-A-Flex Inc	6943
Dura-Flow Products Inc	2386
Durafiber Group	1787
Duraform Ltd	5393
Durand Forms Inc	4983
Durham Geo-Enterprises Inc	7474
Dust Control Systems &	
Equipment	9710
Dustcontrol by Transmatic	5887
Dwyer Companies	6791
DYCO Paints Inc	7570
Dynapac Concrete Equipment	4586
Dywidag Systems	
International USA Inc	5438

E

E-Poxy Industries Inc	6161
E-Z Drill Inc	6649
E-Z Grout Corp	8746
Eager Beaver Trailers	13001
Eagle Industries	5666

continued on page 26

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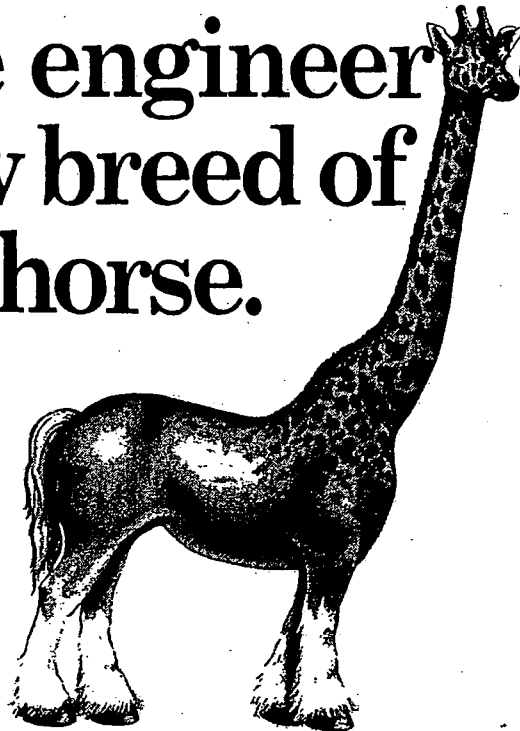
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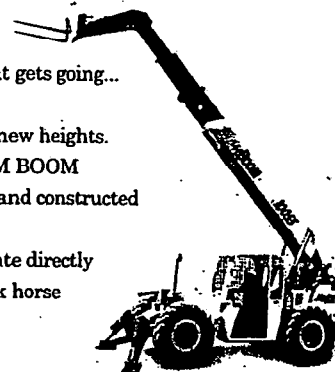
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EXHIBITORS*continued from page 24*

Eagle Safety Eyewear	7874	EFCO	737	EPRO Services Inc	9401	EZE Bend Inc	3488
Eagle-Picher Inc Construction Equipment Div	2773	Elco Construction Products	9548	ERICO Inc	5473		
Earth Contact Products Inc	8672	Elco International Inc	6446	Erie Strayer Co	1353		
East Jordan Iron Works	7695	ELE International	125	Esser Twin Pipes LLC	3101		
EBC Software Ltd	3988	Elk River Inc	343	Essick Construction Products A Multiquip Co	2831		
Environmental Council of Concrete Organizations	18	Elkin Mfg Inc	3061	Clifford W Estes Co Inc	6468		
ECCO-Electronic Controls Co	187	Elliott Diamond Inc	7268	Estwing Mfg Co	6671		
Eclipse Plastic Inc	889	Ellis Construction Specialties Ltd	5653	Etobicoke Ironworks Ltd	3273		
ECO-Block LLC	7653	Ellis Mfg Co Inc	5388	The Euclid Chemical Co	6761		
Eco-Pan	8651	EMI Construction Products	671	Euro Industries Korea	9349		
Ecoform	3690	Empire Level Mfg Corp	9012	EUROBEND SA	9200		
EDCO-Equipment Development Co Inc	4861	Endress Gen-Set Corp	7365	EVG	1513		
Edmar Abrasive Co	2891	Enerpac-Applied Power	4477	Excellent Coatings Inc	6765		
		Engelhard Corp Pigments & Additives Group	6187	Expanded Shale Clay & Slate Institute	4587		
		Enginaire	7590	Extac USA Inc	1291		
		Engineered Wire Products	3373	EZ Cut Products Inc	301		
		Engineering News-Record	1625	EZ Scaffold Corp	7343		
		ENVIRO-PORT Inc	1272				

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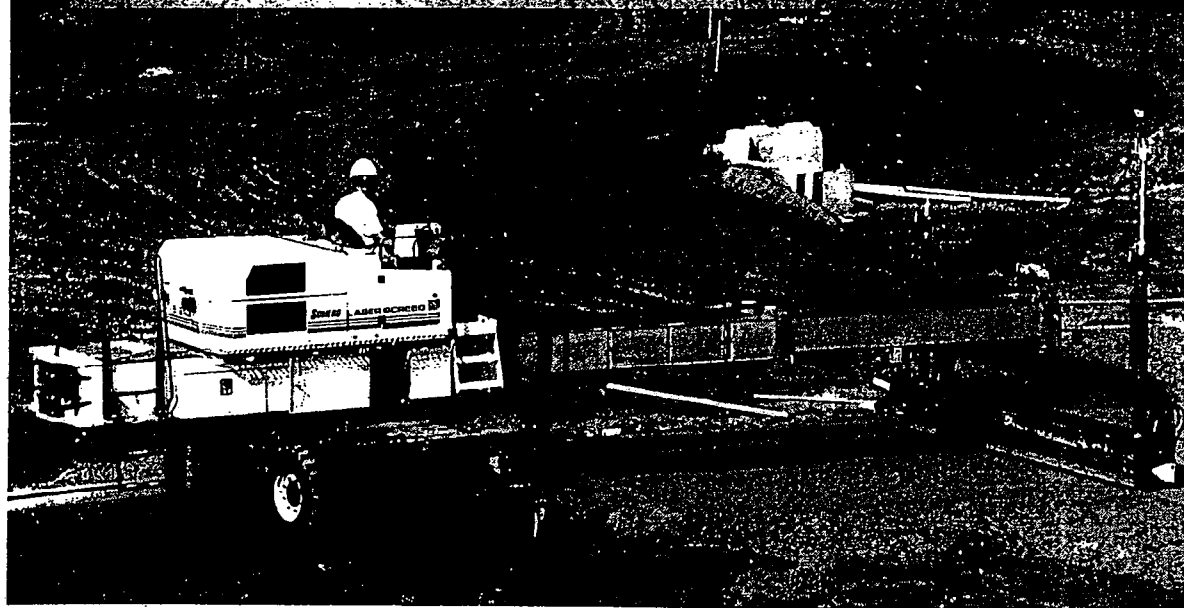
F & S Mfg Inc	7572
Fabsco Corp	7262
Allen Face & Co	1843
The Face Companies	4187
FallTech	9640
Fascan International Inc	325
Fascut Industries Inc	102
Fastenal Co	9143
Fastfoot Industries Ltd	8274
FFC Inc	2683
Fibercon International Inc	4593
Fiberforce Div Novex Systems International Ltd	412
Fidelity & Deposit Companies Inc	9007
Final Fixx Inc	9558
Firestone Building Products First Continental International (NJ) Inc	9348
Firstline Corp	7240
Fischer Crane Co/ICM	9226
Georg Fischer Disa Goff Inc	6453
Fister Quarries Group Inc	1547
Fitzgerald Formliners	946
Five Star Products Inc	6853
Flex/Porter-Cable	7982
Flo Draulic Inc	9730
Florida Concrete & Products Association Inc	7689
Florida Independent Concrete & Associated Prods Inc	1
Florida Wire & Cable Inc	761
FMC Corp Lithium Div	7046
Foam Wonder Wall Inc	1069
Fomo Products Inc	7286
Footlock Bracing Systems Div Direct Steel of MN	6286
Force Field Technologies Inc	9655
Foresight Products LLC	209
Forfam Inc	7238
Form Tech Windows	8772
Form-A-Key Products	5588
Formtech International Corp	8161
Formwork Exchange Ltd	4493
Formwork Finders International	3691
Forney Inc	6361
FORTA Corp	4761
Fortifiber Building Products Systems	7549
Fosroc Ltd	277
Fostoria Industries Inc	162
Foundation Technologies Inc	107
4 Seasons Inc	8774
Fourply Inc	7574
Fox Industries Inc	9448
Fraco Products Ltd	6591
Fraser Products Inc	2988
Freightliner Corp	2143
FrenchCreek Production Inc	8483
Fringe Insurance Benefits Inc	5688
Fritz-Pak Corp	2777
FTI/FASTEEL Systems	6572
Futaba Corp of America	8446
FW Dodge	1625
Fyfe Co LLC	8770

G

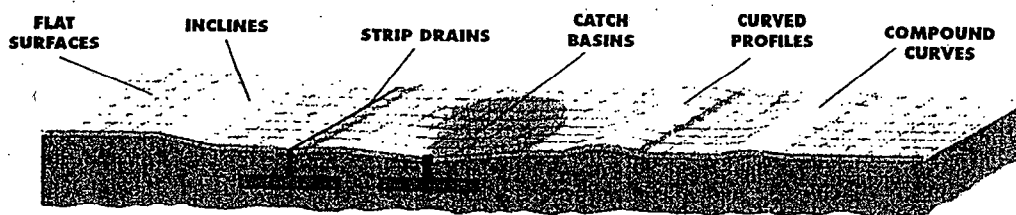
Gaco Western Inc	587
Galaxy Industries	214
Galaxy Tire & Wheel Co	1243
Gar-Bro Mfg Co	8271
Gardner Denver Water Jetting	9362
Garland Flour Co	6651
Gates & Sons Inc	4243
GDM Inc	5247
Gene APC Business Solutions	3771
Gehl Co	2161
Gemite Products Inc	6768
General Breakers of America	9447

continued on page 28

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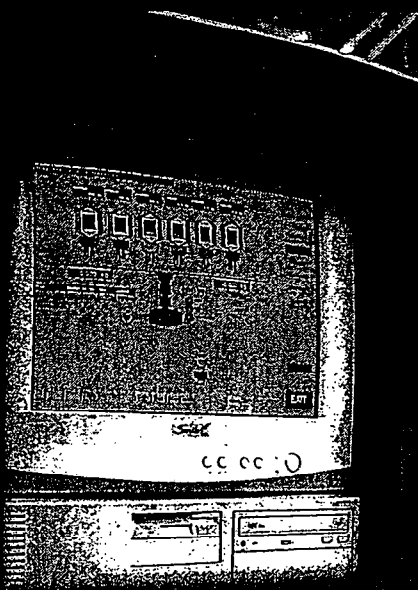
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PT 03380

EXHIBITORS

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General Equipment Co	3983	GME-Griswold Machine & Engineering	9727	Ground Heaters Inc	7751	Hayes Industries Ltd	761
General Technologies Inc	991	GMX Div The Garland Co	5791	Gulf Coast Paint Mfg Inc	6951	HBC-radiomatic Inc	7382
Genesis Equipment & Mfg Inc	8570	GoldenLook International Inc	6347	Gunitz/Shotcrete		HCSS-Heavy Construction Systems Specialists Inc	3782
Genie Industries	4251	GOMACO Corp	3801	Contractors Association	6060	Heat Wagon Inc	6093
Genco America Inc	853	The Goodyear Tire & Rubber Co	201	Gusmer Corp	7739	HEATEC	9249
GEOPAK Corp	7970	The Gorman-Rupp Co	4389			Heavy Equipment News	4201
Geosynthetic Materials Assn	28	The Gradall Co	2583			Heckmann Building Products	4290
Geotest Instrument Corp	7786	Grading & Excavation Contractor Magazine	9328			Hehr International Polymers	8453
Germann Instruments Inc	6991	Grantex Surface Systems	6291			Helac Corp PowerTilt Div	274
Geroquip/Magic Screed	1883	Gravel Conveyors Inc	2849			Helifix North America Corp	4381
Gill Industries Inc	6867	Gray	9641			Henry Co	5783
Gilson Co Inc	3277	Green Bull Inc	7486			Henry Mfg Co	7253
Glas-Craft	8495	Green Mountain International Inc	6486			Herron Wire Products Inc	4788
Glenmac Inc	3177	Greenlife Inc	7548			Hetronic USA	8273
GlobalTech Building Systems Inc	8191	Greenstreak Inc	1061			Hi-Lite Systems	3975
GM Fleet & Commercial	813	GrimmerSchmidt Compressor	9706			Hill & Griffith Co	233
		Grip-Tite Mfg Co Inc	5893			Hilliard Corp	9628
						Hilman Rollers	2788
						Hilti Inc	6843
						HIT Tools USA	7469
						Hitachi Koki USA Ltd	5583
						Hobb International	7294
						Hobbs Trailers & Equipment Inc	
						Central Silo Div	8788
						Hoffman Diamond Products Inc	4789
						Hogan Co Inc	1165
						Hohmann & Barnard Inc	8287
						Holdem Co	4089
						Holnam Inc	7261
						Homasote Co	5237
						Huber - Sohner Integrations Inc	6974
						H D Hudson Mfg Co	7047
						Hughes Brothers Inc	1286
						Hughes Mfg Inc	7147
						Humboldt Mfg Co	4883
						Hurricane Compressors	9426
						Hydra-Mac International Inc	2693
						Hydratone Inc	7277
						Hydraulic Mudpumps Inc	6086
						Hydromix Inc	414
						Hydromix Ltd	1377
						HydroProducts LLC	8751

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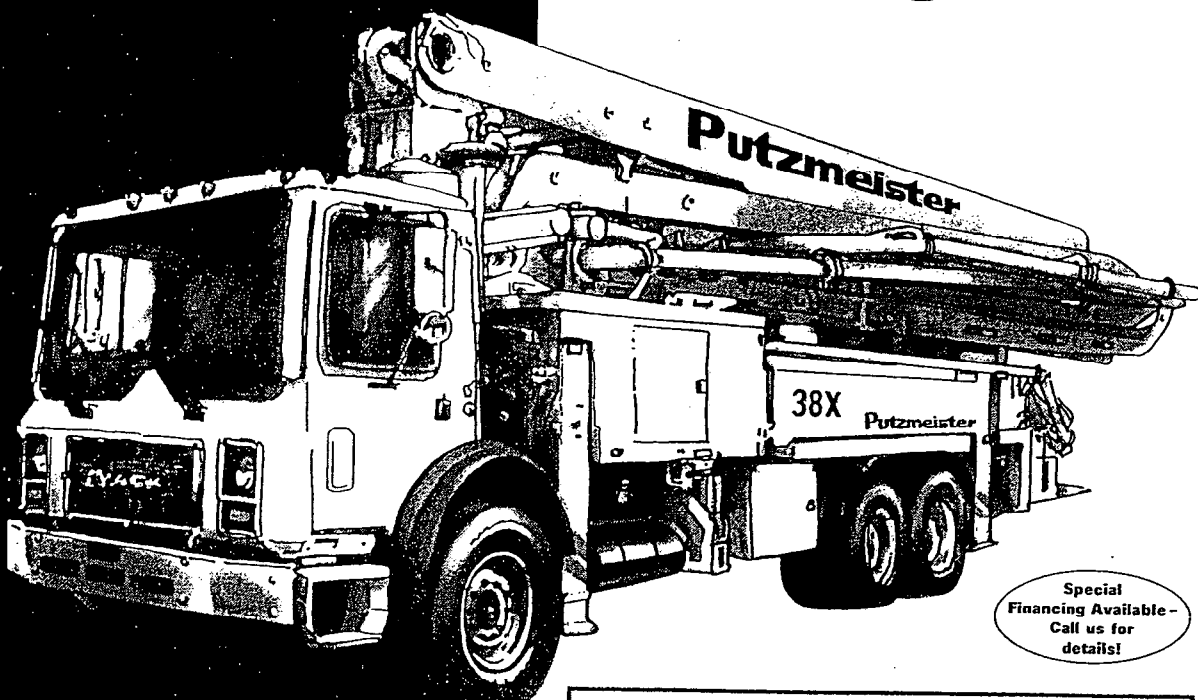
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ICE Block Building Systems	8071
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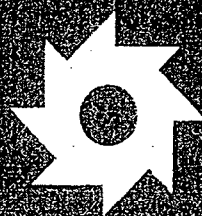
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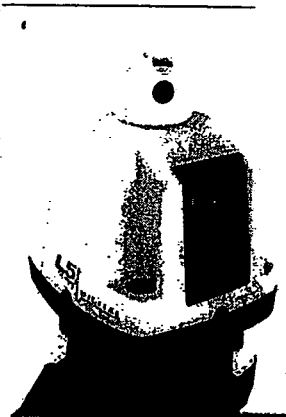
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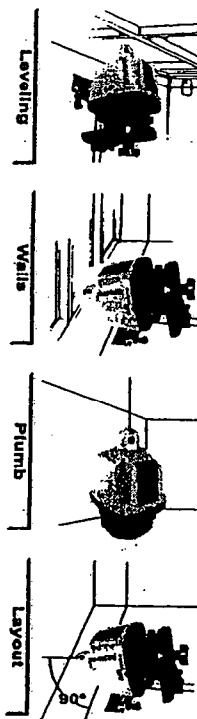
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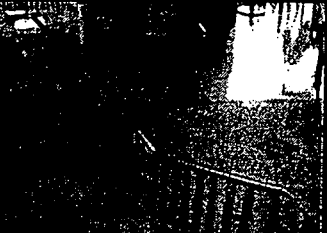
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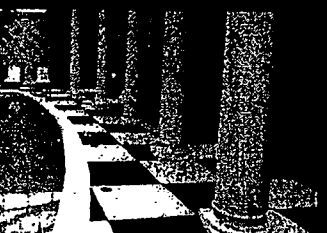
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Peak Software Systems Inc	6890
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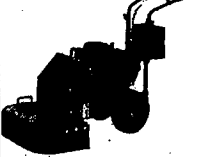
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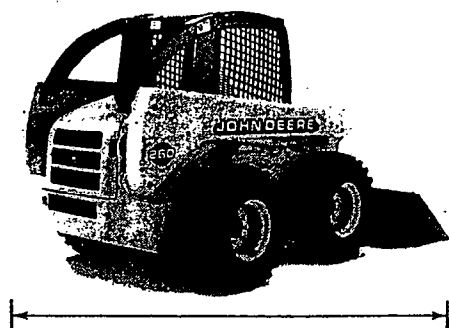
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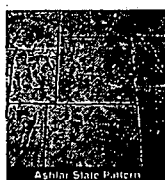
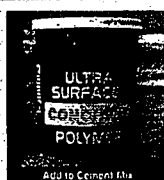
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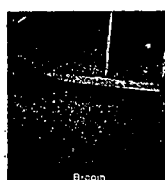
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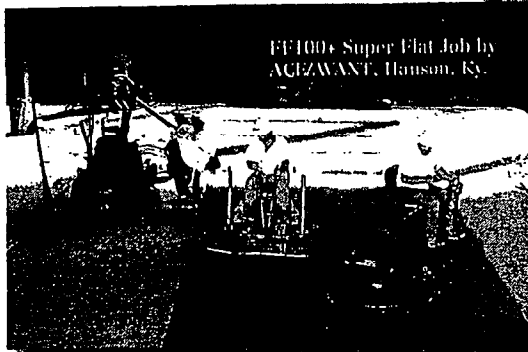
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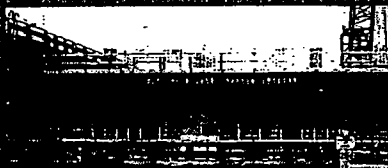


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SIMPLEX Div Templeton		Slime/Access Marketing	7270	Sons Financial	9744	SPX Power Team	5983
Kenly & Co Inc	305	Slip Industries Inc	3093	Southdown Inc	1573	SSL LLC	9129
Simplex Forms Systems Co		Slipform Tool Co	9322	Southeastern Filtration & Equipment Systems	1890	SSPC: The Society for Protective Coatings	6066
Div J Bartholomew Engrg	1174	Slipnot Safety Flooring		Southern Construction Products	408	Stabila Inc	6072
Simpson Strong-Tie Co Inc	4350	Div W S Molnar Co	7254	Southern Cross Construction	9644	Stampcrete International Ltd	5493
Simpson Timber Co		SM Diamond Tools Inc	6771	Southern Grouts & Mortars Inc	6288	Stanley Hydraulic Tools	1133
Panel Products Div	5183	Smart Masonry Distributors Inc	7295	Southold International	4393	Star Diamond Tools Inc	7075
Simtech Overlays	3391	T. I. Smith Machine	8561	SP Systems LLC	686	Star Industries	183
Sinclair Equipment Co	6793	Smooth-On Inc	489	Spancrete Machinery Corp	264	STARDEK Products	6173
Sioux Corp	1343	Smurfit-Stone Container Corp	143	Spec Mix Inc	4277	Steam Engineering	8486
Sistrom Inc	9606	Soco-Shield	8174	Specialty Concrete Products Inc	5567	Steelcote Mfg Co	6586
Site Mix Systems	8741	Soff-Cut International Inc	5161	Specialty Products Inc	7068	STEELMATE	7595
Sivento Inc	7077	SOKKIA Corp	4025	SPECTRA PRECISION	4845	Stegmeier Corp	846
SKY TRAK International		Solida USA Inc	9113	Speed Shore Corp	1287	Stellar Industries Inc	8261
An OmniQuip Co	3051	Solo Inc	8074	Spider Div SafeWorks LLC	6165	Stellar-Mark Inc	7089
Skyjack Inc	1325	Solomon Colors	1793	Spillman Co	867	Stema Engineering AS	8051
		Somero Enterprises Inc	2301	Spray-Crete Industries	7377	Stencil Systems Inc	7682
		Sonoco Products Co	843	Spraytech Inc	7081	Stevens Mfg Co Inc	1525
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Div Tamko Roofing Prd	668
R H Tamlyn & Sons Inc	9704
Tamms Industries Co	5753
Tandem Products Inc	8753
Target	3315
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Tech Stone Supply	8667

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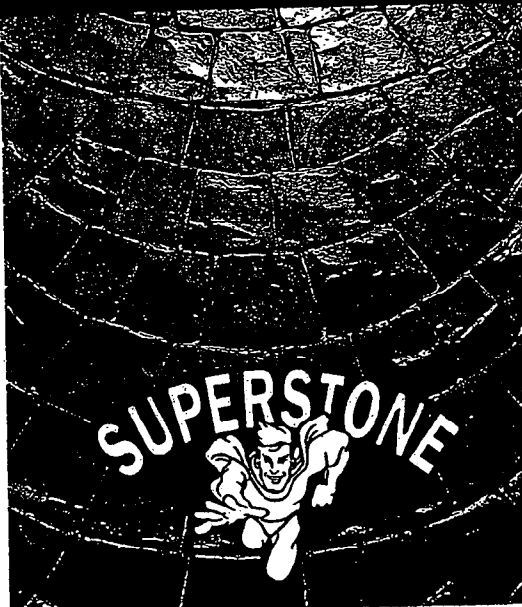
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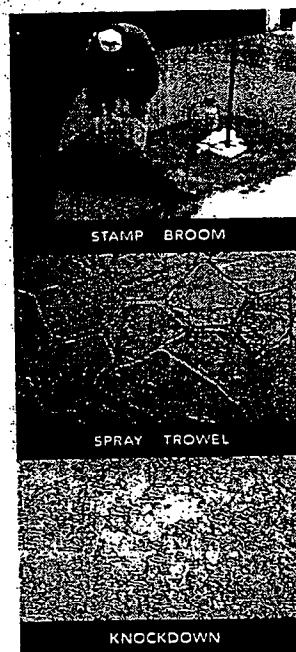


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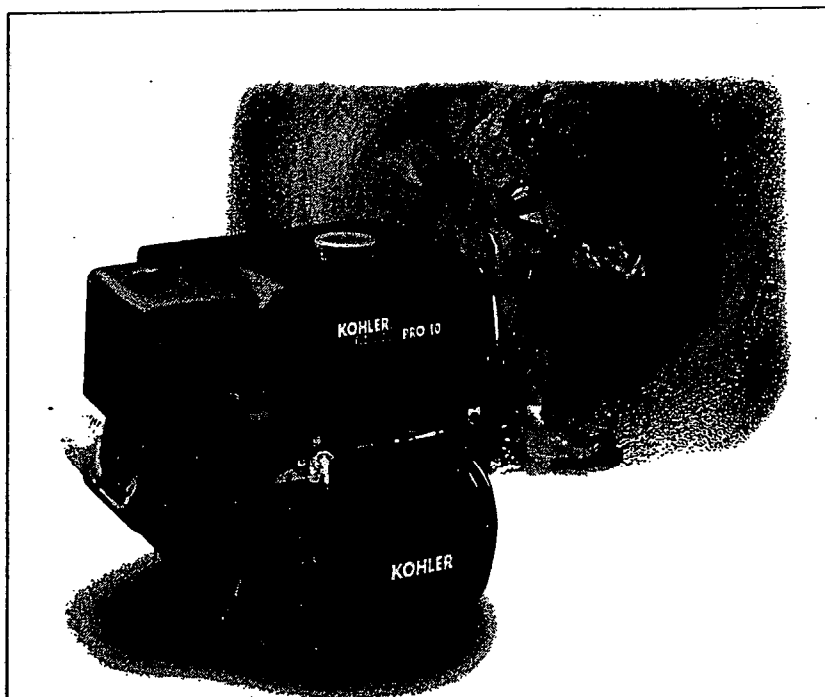
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PT 03394

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Techna International Inc	6568	Tex-Trude Inc	767	Titcomb Bros Mfg	8794	Trelawny Surface Preparation	
Tecumseh Products Co	8371	Texas Diamond Tools Inc	3287	TMT Software Co	3873	Technology	6183
TEI Rock Drills	6783	Textured Coatings of America Inc	9624	Tnemec Co Inc	5474	Trelleborg Fillite	6769
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Tenax Corp	8353	Thermal-Krete USA		Torlan Pool Products	8668	Trimble Navigation Ltd	7483
Tennant Co	4676	Div Kistner Concrete Products	7651	TPI Corp	9536	Triple Crown Products Inc	366
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Terex Bartell Ltd	4113	Thompson Pump & Mfg Co Inc	7288	Tractel Ltd Fallstop Div	4691	Truco Construction Products	5875
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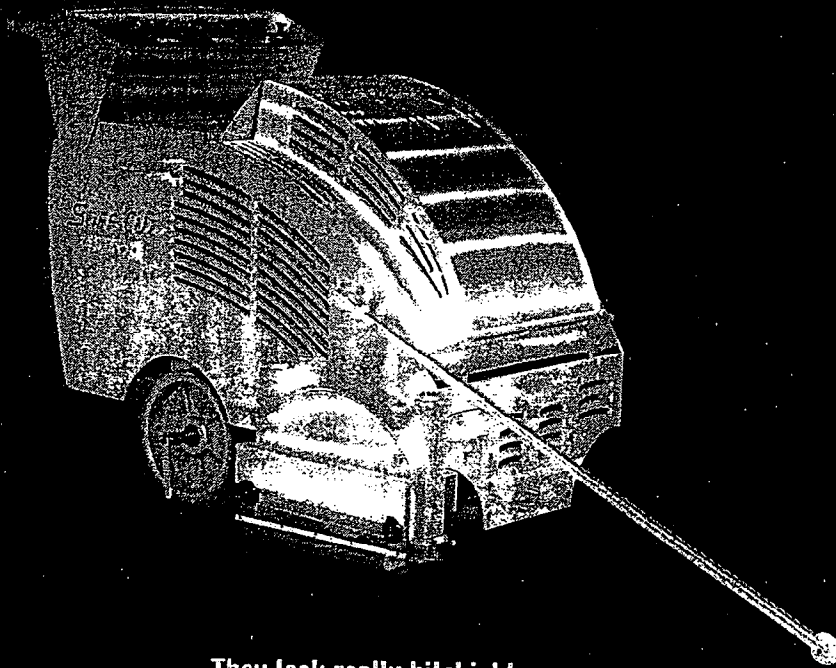
Ultra-Span Technologies Inc	9742
Ultraseal Construction Products Ltd	8494
UNI-DAPT 360	8573
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PT 03396

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RFI Construction Products	6888
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Simple Solutions	5848
Southern Cross Construction	9644
Spectra Precision	4845
Star Diamond Tools	7075
Steelmate	7595
Stephens Mfg. Co.	1525
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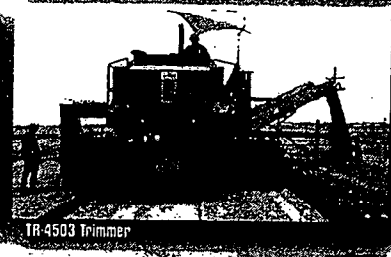
SF-3202 Slipform Paver



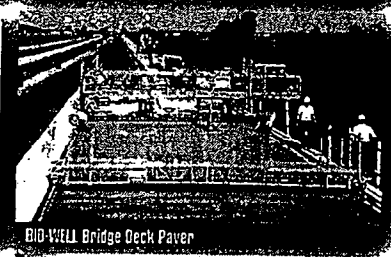
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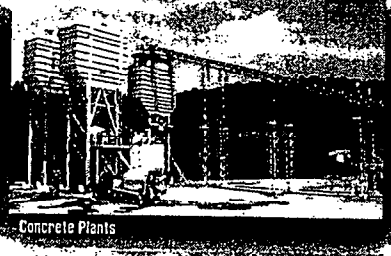
TR-4503 Trimmer



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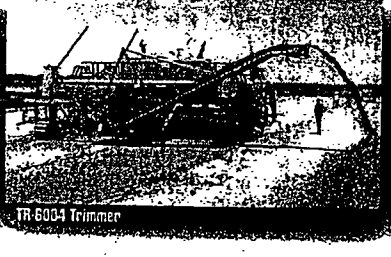
Concrete Plants



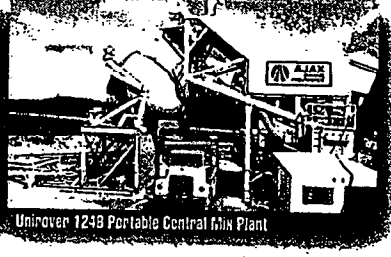
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